

Part 10

Nonrefundable Tax Credit Act

59-10-1001 Title.

This part is known as the "Nonrefundable Tax Credit Act."

Enacted by Chapter 223, 2006 General Session

59-10-1002 Definitions.

As used in this part:

- (1)
 - (a) Except as provided in Subsection (1)(b) or Subsection 59-10-1003(2), "claimant" means a resident or nonresident person that has state taxable income.
 - (b) "Claimant" does not include an estate or trust.
- (2) Except as provided in Subsection 59-10-1003(2), "estate" means a nonresident estate or a resident estate that has state taxable income.
- (3) "Nonrefundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or trust may:
 - (a) claim:
 - (i) as provided by statute; and
 - (ii) in an amount that does not exceed the claimant's, estate's, or trust's tax liability under this chapter for a taxable year; and
 - (b) carry forward or carry back:
 - (i) if allowed by statute; and
 - (ii) unless otherwise provided in statute, to the extent that the amount of the tax credit exceeds the claimant's, estate's, or trust's tax liability under this chapter for a taxable year.
- (4) Except as provided in Subsection 59-10-1003(2), "trust" means a nonresident trust or a resident trust that has state taxable income.

Amended by Chapter 82, 2020 General Session

59-10-1002.1 Removal of tax credit from tax return and prohibition on claiming a tax credit -- Conditions for removal and prohibition on claiming a tax credit -- Commission publishing requirements.

- (1) As used in this section, "tax return" means a tax return filed in accordance with this chapter.
- (2) Except as provided in Subsection (4), beginning two taxable years after the requirements of Subsection (3) are met:
 - (a) the commission shall remove a tax credit allowed under this part from each tax return on which the tax credit appears; and
 - (b) a claimant, estate, or trust filing a tax return may not claim the tax credit.
- (3) Except as provided in Subsection (4), the commission shall remove a tax credit allowed under this part from a tax return and a claimant, estate, or trust filing a tax return may not claim the tax credit as provided in Subsection (2) if:
 - (a) the total amount of the tax credit claimed or carried forward by all claimants, estates, or trusts filing tax returns is less than \$10,000 per year for three consecutive taxable years beginning on or after January 1, 2002; and

- (b) less than 10 claimants, estates, and trusts per year for the three consecutive taxable years described in Subsection (3)(a), file a tax return claiming or carrying forward the tax credit.
- (4) This section does not apply to a tax credit under Section 59-10-1006 or 59-10-1027.
- (5) The commission shall, on or before the November interim meeting of the year after the taxable year in which the requirements of Subsection (3) are met, report to the Revenue and Taxation Interim Committee by electronic means that in accordance with this section:
 - (a) the commission is required to remove a tax credit from each tax return on which the tax credit appears; and
 - (b) a claimant, estate, or trust filing a tax return may not claim the tax credit.
- (6)
 - (a) Within a 30-day period after making the report required by Subsection (5), the commission shall publish a list in accordance with Subsection (6)(b) stating each tax credit that the commission will remove from a return on which the tax credit appears.
 - (b) The list shall:
 - (i) be published on:
 - (A) the commission's website; and
 - (B) the public legal notice website in accordance with Section 45-1-101;
 - (ii) include a statement that:
 - (A) the commission is required to remove the tax credit from each return on which the tax credit appears; and
 - (B) the tax credit may not be claimed on a return;
 - (iii) state the taxable year for which the removal described in Subsection (6)(a) takes effect; and
 - (iv) remain available for viewing and searching until the commission publishes a new list in accordance with this Subsection (6).

Amended by Chapter 64, 2016 General Session

Amended by Chapter 135, 2016 General Session

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, 59-10-1028, 59-10-1042, 59-10-1043, 59-10-1044, 59-10-1046, or 59-10-1047 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.

Amended by Chapter 460, 2023 General Session

Amended by Chapter 462, 2023 General Session

59-10-1003 Tax credit for tax paid by individual to another state.

- (1) Except as provided in Subsection (2), a claimant, estate, or trust may claim a nonrefundable tax credit against the tax otherwise due under this chapter equal to the amount of the tax imposed:
 - (a) on that claimant, estate, or trust for the taxable year;
 - (b) by another state of the United States, the District of Columbia, or a possession of the United States; and
 - (c) on income:
 - (i) derived from sources within that other state of the United States, District of Columbia, or possession of the United States; and
 - (ii) if that income is also subject to tax under this chapter.
- (2) A tax credit under this section may only be claimed by a:
 - (a) resident claimant;
 - (b) resident estate; or
 - (c) resident trust.
- (3) The application of the tax credit provided under this section may not operate to reduce the tax payable under this chapter to an amount less than would have been payable were the income from the other state disregarded.
- (4) The tax credit provided by this section shall be computed and claimed in accordance with rules prescribed by the commission.

Renumbered and Amended by Chapter 223, 2006 General Session

59-10-1004 Tax credit for cash contributions to sheltered workshops.

- (1) For tax years beginning January 1, 1983, and thereafter, in computing the tax due the state under Section 59-10-104 there shall be a nonrefundable tax credit allowed for cash contributions made by a claimant, estate, or trust within the taxable year to nonprofit rehabilitation sheltered workshop facilities for persons with a disability operating in Utah that are certified by the Department of Health and Human Services as a qualifying facility.
- (2) The allowable tax credit is an amount equal to 50% of the aggregate amount of the cash contributions to the qualifying rehabilitation facilities, but the allowed tax credit may not exceed \$200.
- (3) The amount of contribution claimed as a tax credit under this section may not also be claimed as a charitable deduction in determining net taxable income.

Amended by Chapter 329, 2023 General Session

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

- (1) As used in this section:
 - (a) "At-home parent" means a parent:
 - (i) who provides full-time care at the parent's residence for one or more of the parent's own qualifying children;
 - (ii) who claims the qualifying child as a dependent on the parent's individual income tax return for the taxable year for which the parent claims the credit; and
 - (iii) if the sum of the following amounts are \$3,000 or less for the taxable year for which the parent claims the credit:

- (A) the total wages, tips, and other compensation listed on all of the parent's federal Forms W-2; and
 - (B) the gross income listed on the parent's federal Form 1040 Schedule C, Profit or Loss From Business.
- (b) "Parent" means an individual who:
- (i) is the biological mother or father of a qualifying child;
 - (ii) is the stepfather or stepmother of a qualifying child;
 - (iii)
 - (A) legally adopts a qualifying child; or
 - (B) has a qualifying child placed in the individual's home:
 - (I) by a child-placing agency, as defined in Section 26B-2-101; and
 - (II) for the purpose of legally adopting the child;
 - (iv) is a foster parent of a qualifying child; or
 - (v) is a legal guardian of a qualifying child.
- (c) "Qualifying child" means a child who is no more than 12 months of age on the last day of the taxable year for which the tax credit is claimed.
- (2) For a taxable year beginning on or after January 1, 2000, a claimant may claim on the claimant's individual income tax return a nonrefundable tax credit of \$100 for each qualifying child if:
- (a) the claimant or another claimant filing a joint individual income tax return with the claimant is an at-home parent; and
 - (b) the adjusted gross income of all of the claimants filing the individual income tax return is less than or equal to \$50,000.
- (3) A claimant may not carry forward or carry back a tax credit authorized by this section.
- (4)
- (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the Division of Finance shall transfer at least annually from the General Fund into the Income Tax Fund the aggregate amount of all tax credits claimed under this section.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Income Tax Fund as required by Subsection (4)(a).

Amended by Chapter 456, 2022 General Session

59-10-1006 Historic preservation tax credit.

- (1)
- (a) For tax years beginning January 1, 1993, and thereafter, there is allowed to a claimant, estate, or trust, as a nonrefundable tax credit against the income tax due, an amount equal to 20% of qualified rehabilitation expenditures, costing more than \$10,000, incurred in connection with any residential certified historic building. When qualifying expenditures of more than \$10,000 are incurred, the tax credit allowed by this section shall apply to the full amount of expenditures.
 - (b) All rehabilitation work to which the tax credit may be applied shall be approved by the State Historic Preservation Office prior to completion of the rehabilitation project as meeting the Secretary of the Interior's Standards for Rehabilitation so that the office can provide corrective comments to the claimant, estate, or trust in order to preserve the historical qualities of the building.

- (c) Any amount of tax credit remaining may be carried forward to each of the five taxable years following the qualified expenditures.
 - (d) The commission, in consultation with the State Historic Preservation Office, shall promulgate rules to implement this section.
- (2) As used in this section:
- (a) "Certified historic building" means a building that is listed on the National Register of Historic Places within three years of taking the credit under this section or that is located in a National Register Historic District and the building has been designated by the State Historic Preservation Office as being of significance to the district.
 - (b)
 - (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to the rehabilitation and restoration of the physical elements of the building, including the historic decorative elements, and the upgrading of the structural, mechanical, electrical, and plumbing systems to applicable codes.
 - (ii) "Qualified rehabilitation expenditures" does not include expenditures related to:
 - (A) a claimant's, estate's, or trust's personal labor;
 - (B) cost of acquisition of the property;
 - (C) any expenditure attributable to the enlargement of an existing building;
 - (D) rehabilitation of a certified historic building without the approval required in Subsection (1) (b); or
 - (E) any expenditure attributable to landscaping and other site features, outbuildings, garages, and related features.
 - (c) "Residential" means a building used for residential use, either owner occupied or income producing.

Amended by Chapter 160, 2023 General Session

59-10-1007 Recycling market development zones tax credits.

- (1) Subject to other provisions of this section, a claimant, estate, or trust in a recycling market development zone as defined in Section 19-13-102 may claim the following nonrefundable tax credits:
- (a) a tax credit equal to the product of the percentage listed in Subsection 59-10-104(2) and the purchase price paid for machinery and equipment used directly in:
 - (i) commercial composting; or
 - (ii) manufacturing facilities or plant units that:
 - (A) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or
 - (B) reduce or reuse postconsumer waste material; and
 - (b) a tax credit equal to the lesser of:
 - (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the claimant, estate, or trust for establishing and operating recycling or composting technology in the state; and
 - (ii) \$2,000.
- (2)
- (a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust shall receive from the Department of Environmental Quality a written certification, on a form approved by the commission, that includes:

- (i) a statement that the claimant, estate, or trust is operating within the boundaries of a recycling market development zone;
- (ii) for a claim of the tax credit described in Subsection (1)(a):
 - (A) the type of the machinery and equipment that the claimant, estate, or trust purchased;
 - (B) the date that the claimant, estate, or trust purchased the machinery and equipment;
 - (C) the purchase price for the machinery and equipment;
 - (D) the total purchase price for all machinery and equipment for which the claimant, estate, or trust is claiming a tax credit;
 - (E) the amount of the claimant's, estate's, or trust's tax credit; and
 - (F) a statement that the machinery and equipment are integral to the composting or recycling process; and
- (iii) for a claim of the tax credit described in Subsection (1)(b):
 - (A) the type of net expenditure that the claimant, estate, or trust made to a third party;
 - (B) the date that the claimant, estate, or trust made the payment to a third party;
 - (C) the amount that the claimant, estate, or trust paid to each third party;
 - (D) the total amount that the claimant, estate, or trust paid to all third parties;
 - (E) a statement that the net expenditures support the establishment and operation of recycling or composting technology in the state; and
 - (F) the amount of the claimant's, estate's, or trust's tax credit.
- (b)
 - (i) The Department of Environmental Quality shall provide a claimant, estate, or trust seeking to claim a tax credit under Subsection (1) with a copy of the written certification.
 - (ii) The claimant, estate, or trust shall retain a copy of the written certification for the same period of time that a person is required to keep books and records under Section 59-1-1406.
- (c) The Department of Environmental Quality shall submit to the commission an electronic list that includes:
 - (i) the name and identifying information of each claimant, estate, or trust to which the Department of Environmental Quality issues a written certification; and
 - (ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written certification.
- (3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income tax liability as the tax liability is calculated:
 - (a) for the taxable year in which the claimant, estate, or trust made the purchases or payments;
 - (b) before any other tax credits the claimant, estate, or trust may claim for the taxable year; and
 - (c) before the claimant, estate, or trust claims a tax credit authorized by this section.
- (4) The commission shall make rules governing what information a claimant, estate, or trust shall file with the commission to verify the entitlement to and amount of a tax credit.
- (5) Except as provided in Subsections (6) through (8), a claimant, estate, or trust may carry forward, to the next three taxable years, the amount of a tax credit described in Subsection (1)(a) that the claimant, estate, or trust does not use for the taxable year.
- (6) A claimant, estate, or trust may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.
- (7) A claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.

- (8) A claimant, estate, or trust may not claim or carry forward a tax credit under this section for a taxable year during which the claimant, estate, or trust claims the targeted business income tax credit under Section 59-10-1112.

Amended by Chapter 367, 2021 General Session

59-10-1010 Utah low-income housing tax credit.

(1) As used in this section:

- (a) "Allocation certificate" means a certificate in a form prescribed by the commission and issued by the corporation to a housing sponsor that specifies the aggregate amount of the tax credit awarded under this section to a qualified development and includes:
 - (i) the aggregate annual amount of the tax credit awarded that may be claimed by one or more qualified taxpayers; and
 - (ii) the credit period over which the tax credit may be claimed by one or more qualified taxpayers.
- (b) "Building" means a qualified low-income building as defined in Section 42(c), Internal Revenue Code.
- (c) "Corporation" means the Utah Housing Corporation created in Section 63H-8-201.
- (d) Except as provided in Subsection (5)(c), "credit period" means the same as that term is defined in Section 42(f)(1), Internal Revenue Code.
- (e) "Designated reporter" means, as selected by a housing sponsor, the housing sponsor or one of the housing sponsor's direct or indirect partners, members, or shareholders that will provide information to the commission regarding the allocation of tax credits under this section.
- (f) "Federal low-income housing credit" means the federal low-income housing credit described in Section 42, Internal Revenue Code.
- (g) "Housing sponsor" means an entity that owns a qualified development.
- (h) "Pass-through entity" means the same as that term is defined in Section 59-10-1402.
- (i)
 - (i) Subject to Subsection (1)(i)(ii), "pass-through entity taxpayer" means the same as that term is defined in Section 59-10-1402.
 - (ii) The determination of whether a pass-through entity taxpayer is considered a partner, member, or shareholder of a pass-through entity shall be made in accordance with applicable state law governing the pass-through entity.
- (j) "Qualified allocation plan" means a qualified allocation plan adopted by the corporation in accordance with Section 42(m), Internal Revenue Code.
- (k) "Qualified development" means a "qualified low-income housing project":
 - (i) as defined in Section 42(g)(1), Internal Revenue Code; and
 - (ii) that is located in the state.
- (l)
 - (i) "Qualified taxpayer" means a claimant, estate, or trust that:
 - (A) owns a direct or indirect interest, through one or more pass-through entities, in a qualified development; and
 - (B) meets the requirements to claim a tax credit under this section.
 - (ii) "Qualified taxpayer" includes a pass-through entity taxpayer to which a tax credit under this section is passed through by a pass-through entity.

(2)

- (a) A qualified taxpayer may claim a nonrefundable tax credit under this section against taxes otherwise due under this chapter.

- (b) The tax credit shall be in an amount equal to the tax credit amount specified on the allocation certificate that the corporation issues to a housing sponsor under this section.
- (c)
 - (i) For a calendar year beginning on or before December 31, 2016, the aggregate annual tax credit that the corporation may allocate for each year of the credit period pursuant to this section and Section 59-7-607 is an amount equal to the product of:
 - (A) 12.5 cents; and
 - (B) the population of Utah.
 - (ii) For a calendar year beginning on or after January 1, 2017, but beginning on or before December 31, 2022, the aggregate annual tax credit that the corporation may allocate for each year of the credit period pursuant to this section and Section 59-7-607 is an amount equal to the product of:
 - (A) 34.5 cents; and
 - (B) the population of Utah.
 - (iii) For a calendar year beginning on or after January 1, 2023, but beginning on or before December 31, 2028, the aggregate annual tax credit that the corporation may allocate for each year of the credit period pursuant to this section and Section 59-7-607 is \$10,000,000.
 - (iv) For a calendar year beginning on or after January 1, 2029, the aggregate annual tax credit that the corporation may allocate for each year of the credit period pursuant to this section and Section 59-7-607 is the amount described in Subsection (2)(c)(ii).
 - (v) For purposes of this Subsection (2)(c), the population of Utah shall be determined in accordance with Section 146(j), Internal Revenue Code.
- (d)
 - (i) Subject to Subsection (2)(d)(ii), a qualified taxpayer that is a pass-through entity may allocate a tax credit under this section to one or more of the pass-through entity's pass-through entity taxpayers in any manner agreed upon, regardless of whether:
 - (A) the pass-through entity taxpayer is eligible to claim any portion of a federal low-income housing tax credit for the qualified development;
 - (B) the allocation of the tax credit has substantial economic effect within the meaning of Section 704(b), Internal Revenue Code; or
 - (C) the pass-through entity taxpayer is considered a partner for federal income tax purposes.
 - (ii) With respect to a tax year, a qualified taxpayer that is a pass-through entity taxpayer may claim a tax credit allocated to the qualified taxpayer by a pass-through entity under Subsection (2)(d)(i) so long as the qualified taxpayer's ownership interest in the pass-through entity is:
 - (A) acquired on or before December 31 of the tax year to which the tax credit relates; and
 - (B) reflected in the report required in Subsection (6)(b) for the tax year to which the tax credit relates.
- (e) If a qualified taxpayer that is a pass-through entity taxpayer assigns to another taxpayer the pass-through entity taxpayer's ownership interest in a pass-through entity, including the pass-through entity taxpayer's interest in the tax credit associated with the ownership interest, the assignee shall be considered a qualified taxpayer and may claim the tax credit so long as the assignee's ownership interest in the pass-through entity is:
 - (i) acquired on or before December 31 of the tax year to which the tax credit relates; and
 - (ii) reflected in the report required in Subsection (6)(b) for the tax year to which the tax credit relates.

(3)

- (a) The corporation shall determine criteria and procedures for allocating the tax credit under this section and Section 59-7-607 and incorporate the criteria and procedures into the corporation's qualified allocation plan.
- (b) The corporation shall create the criteria under Subsection (3)(a) based on:
 - (i) the number of affordable housing units to be created in Utah for low and moderate income persons in a qualified development;
 - (ii) the level of area median income being served by a qualified development;
 - (iii) the need for the tax credit for the economic feasibility of a qualified development; and
 - (iv) the extended period for which a qualified development commits to remain as affordable housing.
- (4) Any housing sponsor may apply to the corporation for a tax credit allocation under this section.
- (5)
 - (a)
 - (i) The corporation shall determine the amount of the tax credit to allocate to a qualified development in accordance with the qualified allocation plan.
 - (ii)
 - (A) Before the allocation certificate is issued to the housing sponsor, the corporation shall send to the housing sponsor written notice of the corporation's preliminary determination of the tax credit amount to be allocated to the qualified development.
 - (B) The notice described in Subsection (5)(a)(ii)(A) shall specify the corporation's preliminary determination of the tax credit amount to be allocated to the qualified development for each year of the credit period and state that allocation of the tax credit is contingent upon the issuance of an allocation certificate.
 - (iii) Upon approving a final cost certification in accordance with the qualified allocation plan, the corporation shall issue an allocation certificate to the housing sponsor as evidence of the allocation.
 - (iv) The amount of the tax credit specified in an allocation certificate may not exceed 100% of the federal low-income housing credit awarded to a qualified development.
 - (b)
 - (i) Notwithstanding Subsection (5)(a), if a housing sponsor applies to the corporation for a tax credit under this section and an allocation certificate is not yet issued, a qualified taxpayer may claim a tax credit based upon the corporation's preliminary determination of the tax credit amount as stated in the notice under Subsection (5)(a)(ii).
 - (ii) Upon issuance of the allocation certificate to the housing sponsor, a qualified taxpayer that claims a tax credit under this Subsection (5)(b) shall file an amended tax return to adjust the tax credit amount if the amount previously claimed by the qualified taxpayer is different than the amount specified in the allocation certificate.
 - (c) The amount of tax credit that may be claimed in the first year of the credit period may not be reduced as a result of the calculation in Section 42(f)(2), Internal Revenue Code.
 - (d) On or before January 31 of each year, the corporation shall provide to the commission in a form prescribed by the commission a report that describes each allocation certificate that the corporation issued during the previous calendar year.
- (6)
 - (a) A housing sponsor shall provide to the commission identification of the housing sponsor's designated reporter.
 - (b) For each tax year in which a tax credit is claimed under this section, the designated reporter shall provide to the commission in a form prescribed by the commission:

- (i) a list of each qualified taxpayer that has been allocated a portion of the tax credit awarded in the allocation certificate for that tax year;
 - (ii) the amount of tax credit that has been allocated to each qualified taxpayer described in Subsection (6)(b)(i) for that tax year; and
 - (iii) any other information, as prescribed by the commission, to demonstrate that the aggregate annual amount of tax credits allocated to all qualified taxpayers for that tax year does not exceed the aggregate annual tax credit amount specified in the allocation certificate.
- (7)
 - (a) All elections made by a housing sponsor pursuant to Section 42, Internal Revenue Code, shall apply to this section.
 - (b)
 - (i) If a qualified taxpayer is required to recapture a portion of any federal low-income housing credit, the qualified taxpayer that has been allocated a portion of a tax credit under this section shall also be required to recapture a portion of the tax credit under this section.
 - (ii) The state recapture amount shall be equal to the percentage of the state tax credit that equals the proportion the federal recapture amount bears to the original federal low-income housing credit amount subject to recapture.
 - (iii) The designated reporter shall identify each qualified taxpayer that is required to recapture a portion of any state tax credits as described in this Subsection (7)(b).
- (8)
 - (a) Any tax credits returned to the corporation in any year may be reallocated within the same time period as provided in Section 42, Internal Revenue Code.
 - (b) Tax credits that are unallocated by the corporation in any year may be carried over for allocation in subsequent years.
- (9)
 - (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it is earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax credit may be carried back three years or may be carried forward five years as a credit against the tax.
 - (b) Carryover tax credits under Subsection (9)(a) shall be applied against the tax:
 - (i) before the application of the tax credits earned in the current year; and
 - (ii) on a first-earned first-used basis.
- (10) Any tax credit taken in this section may be subject to an annual audit by the commission.
- (11) The corporation shall annually provide an electronic report to the Revenue and Taxation Interim Committee that includes:
 - (a) the purpose and effectiveness of the tax credits;
 - (b) any recommendations for legislative changes to the aggregate tax credit amount that the corporation is authorized to allocate each year under Subsection (2)(c); and
 - (c) the benefits of the tax credits to the state.
- (12) The commission may, in consultation with the corporation, promulgate rules to implement this section.
- (13)
 - (a) Beginning in 2026, and every three years thereafter, the Revenue and Taxation Interim Committee shall conduct a review of the aggregate tax credit amount that the corporation is authorized to allocate and has allocated each year under Subsection (2)(c).
 - (b) In a review under this Subsection (13), the Revenue and Taxation Interim Committee shall:
 - (i) study any recommendations provided by the corporation under Subsection (11)(b); and

- (ii) if the Revenue and Taxation Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

Amended by Chapter 88, 2023 General Session

59-10-1012 Tax credits for research activities conducted in the state -- Carry forward -- Commission to report modification or repeal of certain federal provisions -- Revenue and Taxation Interim Committee study.

- (1)
 - (a) A claimant, estate, or trust meeting the requirements of this section may claim the following nonrefundable tax credits:
 - (i) a research tax credit of 5% of the claimant's, estate's, or trust's qualified research expenses for the current taxable year that exceed the base amount provided for under Subsection (3);
 - (ii) a tax credit for a payment to a qualified organization for basic research as provided in Section 41(e), Internal Revenue Code of 5% for the current taxable year that exceed the base amount provided for under Subsection (3); and
 - (iii) a tax credit equal to 7.5% of the claimant's, estate's, or trust's qualified research expenses for the current taxable year.
 - (b) Subject to Subsection (4), a claimant, estate, or trust may claim a tax credit under:
 - (i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the claimant, estate, or trust incurs the qualified research expenses; or
 - (ii) Subsection (1)(a)(ii), for the taxable year for which the claimant, estate, or trust makes the payment to the qualified organization.
 - (c) The tax credits provided for in this section do not include the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code.
- (2) Except as specifically provided for in this section:
 - (a) the tax credits authorized under Subsection (1) shall be calculated as provided in Section 41, Internal Revenue Code; and
 - (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating the tax credits authorized under Subsection (1).
- (3) For purposes of this section:
 - (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h), Internal Revenue Code, except that:
 - (i) the base amount does not include the calculation of the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code;
 - (ii) a claimant's, estate's, or trust's gross receipts include only those gross receipts attributable to sources within this state as provided in Section 59-10-118; and
 - (iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating the base amount, a claimant, estate, or trust:
 - (A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B), Internal Revenue Code, regardless of whether the claimant, estate, or trust meets the requirements of Section 41(c)(3)(B)(i)(I) or (II), Internal Revenue Code; and
 - (B) may not revoke an election to be treated as a start-up company under Subsection (3)(a)(iii)(A);
 - (b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except that the term includes only basic research conducted in this state;

- (c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state;
 - (d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal Revenue Code, except that the term includes only:
 - (i) in-house research expenses incurred in this state; and
 - (ii) contract research expenses incurred in this state; and
 - (e) a tax credit provided for in this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.
- (4)
- (a) If the amount of a tax credit claimed by a claimant, estate, or trust under Subsection (1)(a)(i) or (ii) exceeds the claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability:
 - (i) may be carried forward for a period that does not exceed the next 14 taxable years; and
 - (ii) may not be carried back to a taxable year preceding the current taxable year.
 - (b) A claimant, estate, or trust may not carry forward the tax credit allowed by Subsection (1)(a)(iii).
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for purposes of this section prescribing a certification process for qualified organizations to ensure that amounts paid to the qualified organizations are for basic research conducted in this state.
- (6) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the commission shall report the modification or repeal by electronic means to the Revenue and Taxation Interim Committee within 60 days after the day on which the modification or repeal becomes effective.
- (7)
- (a) The Revenue and Taxation Interim Committee shall review the tax credits provided for in this section on or before October 1 of the year after the year in which the commission reports under Subsection (6) a modification or repeal of a provision of Section 41, Internal Revenue Code.
 - (b) The review described in Subsection (7)(a) is in addition to the review required by Section 59-10-137.
 - (c) Notwithstanding Subsection (7)(a), the Revenue and Taxation Interim Committee is not required to review the tax credits provided for in this section if the only modification to a provision of Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section 41(h), Internal Revenue Code.
 - (d) The Revenue and Taxation Interim Committee shall address in a review under this section:
 - (i) the cost of the tax credits provided for in this section;
 - (ii) the purpose and effectiveness of the tax credits provided for in this section;
 - (iii) whether the tax credits provided for in this section benefit the state; and
 - (iv) whether the tax credits provided for in this section should be:
 - (A) continued;
 - (B) modified; or
 - (C) repealed.
 - (e) If the Revenue and Taxation Interim Committee reviews the tax credits provided for in this section, the committee shall issue a report of the Revenue and Taxation Interim Committee's findings.

Amended by Chapter 1, 2016 Special Session 3

59-10-1014 Nonrefundable renewable energy systems tax credits -- Definitions --

Certification -- Rulemaking authority.

(1) As used in this section:

(a)

(i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(d) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

(e) "Geothermal energy" means energy generated by heat that is contained in the earth.

(f) "Geothermal heat pump system" means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

(g) "Hydroenergy system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(h) "Office" means the Office of Energy Development created in Section 79-6-401.

(i)

(i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(j) "Photovoltaic system" means an active solar system that generates electricity from sunlight.

(k)

(i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a residential energy system.

(ii) "Principal recovery portion" does not include:

(A) an interest charge; or

(B) a maintenance expense.

(l) "Residential energy system" means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

- (iv) a geothermal heat pump system;
 - (v) a hydroenergy system;
 - (vi) a passive solar system; or
 - (vii) a wind system.
- (m)
- (i) "Residential unit" means a house, condominium, apartment, or similar dwelling unit that:
 - (A) is located in the state; and
 - (B) serves as a dwelling for a person, group of persons, or a family.
 - (ii) "Residential unit" does not include property subject to a fee under:
 - (A) Section 59-2-405;
 - (B) Section 59-2-405.1;
 - (C) Section 59-2-405.2;
 - (D) Section 59-2-405.3; or
 - (E) Section 72-10-110.5.
 - (n) "Wind system" means a system of apparatus and equipment that is capable of:
 - (i) intercepting and converting wind energy into mechanical or electrical energy; and
 - (ii) transferring these forms of energy by a separate apparatus to the point of use or storage.
- (2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.
- (3) For a taxable year beginning on or after January 1, 2007, a claimant, estate, or trust may claim a nonrefundable tax credit under this section with respect to a residential unit the claimant, estate, or trust owns or uses if:
- (a) the claimant, estate, or trust:
 - (i) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or
 - (ii) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;
 - (b) the residential energy system is installed on or after January 1, 2007; and
 - (c) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (5).
- (4)
- (a) For a residential energy system, other than a photovoltaic system, the tax credit described in this section is equal to the lesser of:
 - (i) 25% of the reasonable costs, including installation costs, of each residential energy system installed with respect to each residential unit the claimant, estate, or trust owns or uses; and
 - (ii) \$2,000.
 - (b) Subject to Subsection (5)(d), for a residential energy system that is a photovoltaic system, the tax credit described in this section is equal to the lesser of:
 - (i) 25% of the reasonable costs, including installation costs, of each system installed with respect to each residential unit the claimant, estate, or trust owns or uses; or
 - (ii)
 - (A) for a system installed on or after January 1, 2007, but on or before December 31, 2017, \$2,000;
 - (B) for a system installed on or after January 1, 2018, but on or before December 31, 2020, \$1,600;
 - (C) for a system installed on or after January 1, 2021, but on or before December 31, 2021, \$1,200;

- (D) for a system installed on or after January 1, 2022, but on or before December 31, 2022, \$800;
 - (E) for a system installed on or after January 1, 2023, but on or before December 31, 2023, \$400; and
 - (F) for a system installed on or after January 1, 2024, \$0.
- (c)
- (i) The office shall determine the amount of the tax credit that a claimant, estate, or trust may claim and list that amount on the written certification that the office issues under Subsection (5).
 - (ii) The claimant, estate, or trust may claim the tax credit in the amount listed on the written certification that the office issues under Subsection (5).
- (d) A claimant, estate, or trust may claim a tax credit under Subsection (3) for the taxable year in which the residential energy system is installed.
- (e) If the amount of a tax credit listed on the written certification exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.
- (f) A claimant, estate, or trust may claim a tax credit with respect to additional residential energy systems or parts of residential energy systems for a subsequent taxable year if the total amount of tax credit the claimant, estate, or trust claims does not exceed \$2,000 per residential unit.
- (g)
- (i) Subject to Subsections (4)(g)(ii) and (iii), a claimant, estate, or trust that leases a residential energy system installed on a residential unit may claim a tax credit under Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.
 - (ii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential energy system may claim as a tax credit under Subsection (3) only the principal recovery portion of the lease payments.
 - (iii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential energy system may claim a tax credit under Subsection (3) for a period that does not exceed seven taxable years after the date the lease begins, as stated in the lease agreement.
- (h) If a claimant, estate, or trust sells a residential unit to another person before the claimant, estate, or trust claims the tax credit under Subsection (3):
- (i) the claimant, estate, or trust may assign the tax credit to the other person; and
 - (ii)
 - (A) if the other person files a return under Chapter 7, Corporate Franchise and Income Taxes, the other person may claim the tax credit as if the other person had met the requirements of Section 59-7-614 to claim the tax credit; or
 - (B) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit.
- (5)
- (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.
 - (b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:

- (i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and
- (ii) the office determines that the residential energy system with respect to which the claimant, estate, or trust seeks to claim a tax credit:
 - (A) has been completely installed;
 - (B) is a viable system for saving or producing energy from renewable resources; and
 - (C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:
 - (i) for determining whether a residential energy system meets the requirements of Subsection (5)(b)(ii); and
 - (ii) for purposes of determining the amount of a tax credit that a claimant, estate, or trust may receive under Subsection (4), establishing the reasonable costs of a residential energy system, as an amount per unit of energy production.
- (d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.
- (e) The office shall submit to the commission an electronic list that includes:
 - (i) the name and identifying information of each claimant, estate, or trust to which the office issues a written certification; and
 - (ii) for each claimant, estate, or trust:
 - (A) the amount of the tax credit listed on the written certification; and
 - (B) the date the renewable energy system was installed.
- (6) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.
- (7) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

Amended by Chapter 280, 2021 General Session

59-10-1015 Definitions -- Tax credit for live organ donation expenses -- Rulemaking authority.

- (1) As used in this section:
 - (a) "human organ" means:
 - (i) human bone marrow; or
 - (ii) any part of a human:
 - (A) intestine;
 - (B) kidney;
 - (C) liver;
 - (D) lung; or
 - (E) pancreas;
 - (b) "live organ donation" means that an individual who is living donates one or more of that individual's human organs:
 - (i) to another human; and
 - (ii) to be transplanted:

- (A) using a medical procedure; and
- (B) to the body of the other human; and
- (c)
 - (i) "live organ donation expenses" means the total amount of expenses:
 - (A) incurred by a claimant; and
 - (B) that:
 - (I) are not reimbursed to that claimant by any person;
 - (II) are directly related to a live organ donation by:
 - (Aa) the claimant; or
 - (Bb) another individual that the claimant is allowed to claim as a dependent in accordance with Section 151, Internal Revenue Code; and
 - (III) are for:
 - (Aa) travel;
 - (Bb) lodging; or
 - (Cc) a lost wage; and
 - (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "lost wage."
- (2) For taxable years beginning on or after January 1, 2005, a claimant may claim a nonrefundable tax credit:
 - (a) as provided in this section;
 - (b) against taxes otherwise due under this chapter;
 - (c) for live organ donation expenses incurred during the taxable year for which the live organ donation occurs; and
 - (d) in an amount equal to the lesser of:
 - (i) the actual amount of the live organ donation expenses; or
 - (ii) \$10,000.
- (3) If the amount of a tax credit under this section exceeds a claimant's tax liability under this chapter for a taxable year, the amount of the tax credit that exceeds the claimant's tax liability may be carried forward for a period that does not exceed the next five taxable years.

Amended by Chapter 382, 2008 General Session

59-10-1017 Utah Educational Savings Plan tax credit.

- (1) As used in this section:
 - (a) "Account owner" means the same as that term is defined in Section 53B-8a-102.
 - (b) "Grantor trust" means the same as that term is defined in Section 53B-8a-102.5.
 - (c) "Higher education costs" means the same as that term is defined in Section 53B-8a-102.5.
 - (d) "Maximum amount of a qualified investment for the taxable year" means, for a taxable year, the product of the percentage listed in Subsection 59-10-104(2) and:
 - (i) subject to Subsection (1)(d)(iii), for a claimant, estate, or trust that is an account owner, if that claimant, estate, or trust is other than husband and wife account owners who file a single return jointly, the maximum amount of a qualified investment:
 - (A) listed in Subsection 53B-8a-106(1)(e)(ii); and
 - (B) increased or kept for that taxable year in accordance with Subsections 53B-8a-106(1)(f) and (g);
 - (ii) subject to Subsection (1)(d)(iii), for claimants who are husband and wife account owners who file a single return jointly, the maximum amount of a qualified investment:
 - (A) listed in Subsection 53B-8a-106(1)(e)(iii); and

- (B) increased or kept for that taxable year in accordance with Subsections 53B-8a-106(1)(f) and (g); or
- (iii) for a grantor trust:
 - (A) if the owner of the grantor trust has a single filing status or head of household filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(d)(i); or
 - (B) if the owner of the grantor trust has a joint filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(d)(ii).
- (e) "Owner of the grantor trust" means the same as that term is defined in Section 53B-8a-102.5.
- (f) "Qualified investment" means the same as that term is defined in Section 53B-8a-102.5.
- (2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax credit equal to the product of:
 - (a) the amount of a qualified investment made:
 - (i) during the taxable year; and
 - (ii) into an account owned by the claimant, estate, or trust; and
 - (b) the percentage listed in Subsection 59-10-104(2).
- (3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may make a qualified investment described in Subsection (2).
- (4) A claimant, estate, or trust that is an account owner may not claim a tax credit under this section with respect to any portion of a qualified investment described in Subsection (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal income tax return.
- (5) A tax credit under this section may not exceed the maximum amount of a qualified investment for the taxable year.
- (6) A claimant, estate, or trust that is an account owner may not carry forward or carry back the tax credit under this section.

Amended by Chapter 367, 2021 General Session

Amended by Chapter 370, 2021 General Session

59-10-1018 Definitions -- Nonrefundable taxpayer tax credits.

- (1) As used in this section:
 - (a) "Head of household filing status" means a head of household, as defined in Section 2(b), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.
 - (b) "Joint filing status" means:
 - (i) spouses who file a single return jointly under this chapter for a taxable year; or
 - (ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.
 - (c) "Qualifying dependent" means an individual with respect to whom the claimant is allowed to claim a tax credit under Section 24, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year.
 - (d) "Single filing status" means:
 - (i) a single individual who files a single federal individual income tax return for the taxable year; or
 - (ii) a married individual who:
 - (A) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

- (B) files a single federal individual income tax return for the taxable year.
- (e) "State or local income tax" means the lesser of:
 - (i) the amount of state or local income tax that the claimant:
 - (A) pays for the taxable year; and
 - (B) reports on the claimant's federal individual income tax return for the taxable year, regardless of whether the claimant is allowed an itemized deduction on the claimant's federal individual income tax return for the taxable year for the full amount of state or local income tax paid; and
 - (ii) \$10,000.
- (f)
 - (i) "Utah itemized deduction" means the amount the claimant deducts as allowed as an itemized deduction on the claimant's federal individual income tax return for that taxable year minus any amount of state or local income tax for the taxable year.
 - (ii) "Utah itemized deduction" does not include any amount of qualified business income that the claimant subtracts as allowed by Section 199A, Internal Revenue Code, on the claimant's federal income tax return for that taxable year.
- (g) "Utah personal exemption" means, subject to Subsection (6), \$1,750 multiplied by the number of the claimant's qualifying dependents plus an additional qualifying dependent in the year of a qualifying dependent's birth.
- (2) Except as provided in Section 59-10-1002.2, and subject to Subsections (3) through (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the sum of:
 - (a)
 - (i) for a claimant that deducts the standard deduction on the claimant's federal individual income tax return for the taxable year, 6% of the amount the claimant deducts as allowed as the standard deduction on the claimant's federal individual income tax return for that taxable year; or
 - (ii) for a claimant that itemizes deductions on the claimant's federal individual income tax return for the taxable year, 6% of the amount of the claimant's Utah itemized deduction; and
 - (b) 6% of the claimant's Utah personal exemption.
- (3) A claimant may not carry forward or carry back a tax credit under this section.
- (4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar by which a claimant's state taxable income exceeds:
 - (a) for a claimant who has a single filing status, \$15,095;
 - (b) for a claimant who has a head of household filing status, \$22,643; or
 - (c) for a claimant who has a joint filing status, \$30,190.
- (5)
 - (a) For a taxable year beginning on or after January 1, 2022, the commission shall increase or decrease annually the following dollar amounts by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2020:
 - (i) the dollar amount listed in Subsection (4)(a); and
 - (ii) the dollar amount listed in Subsection (4)(b).
 - (b) After the commission increases or decreases the dollar amounts listed in Subsection (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the nearest whole dollar.

- (c) After the commission rounds the dollar amounts as required by Subsection (5)(b), the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that the dollar amount listed in Subsection (4)(c) is equal to the product of:
 - (i) the dollar amount listed in Subsection (4)(a); and
 - (ii) two.
 - (d) For purposes of Subsection (5)(a), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.
- (6)
- (a) For a taxable year beginning on or after January 1, 2022, the commission shall increase annually the Utah personal exemption amount listed in Subsection (1)(g) by a percentage equal to the percentage by which the consumer price index for the preceding calendar year exceeds the consumer price index for calendar year 2020.
 - (b) After the commission increases the Utah personal exemption amount as described in Subsection (6)(a), the commission shall round the Utah personal exemption amount to the nearest whole dollar.
 - (c) For purposes of Subsection (6)(a), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

Amended by Chapter 459, 2023 General Session

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

- (1) As used in this section:
- (a) "Eligible claimant" means a claimant, regardless of whether that claimant is retired, who was born on or before December 31, 1952.
 - (b) "Head of household filing status" means the same as that term is defined in Section 59-10-1018.
 - (c) "Joint filing status" means the same as that term is defined in Section 59-10-1018.
 - (d) "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.
 - (e) "Modified adjusted gross income" means the sum of the following for an eligible claimant or, if the eligible claimant's return under this chapter is allowed a joint filing status, the eligible claimant and the eligible claimant's spouse:
 - (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)(e)(i); and
 - (iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)(e)(i).
 - (f) "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 Subsections (3) and (4), each eligible claimant may claim a nonrefundable tax credit of \$450 against taxes otherwise due under this part.
- (3) An eligible claimant may not:
- (a) carry forward or carry back the amount of a tax credit under this section that exceeds the eligible claimant's tax liability for the taxable year; or

- (b) claim a tax credit under this section for a taxable year if a tax credit under Section 59-10-1042 or 59-10-1043 is claimed on the claimant's return for the same taxable year.
- (4) The tax credit allowed by Subsection (2) claimed on a 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.

Amended by Chapter 258, 2022 General Session

59-10-1020 Nonrefundable estate or trust tax credit.

- (1) For taxable years beginning on or after January 1, 2008, an estate or trust may claim a nonrefundable tax credit against taxes otherwise due under Part 2, Trusts and Estates, equal to the product of:
 - (a) the sum of:
 - (i) the amount that a resident or nonresident estate or trust deducts under Section 163, Internal Revenue Code, for interest paid or accrued, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;
 - (ii) the amount that a resident or nonresident estate or trust deducts under Section 164, Internal Revenue Code, for taxes paid or accrued other than for any amount paid or accrued for state or local income taxes for the taxable year, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;
 - (iii) the amount that a resident or nonresident estate or trust other than a qualified nongrantor charitable lead trust deducts under Section 642(c), Internal Revenue Code, as a charitable contribution deduction, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;
 - (iv) subject to Subsection (3), the amount that a resident or nonresident estate or trust deducts as an attorney, accountant, or return preparer fee, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and
 - (v) subject to Subsection (3), the amount that a resident or nonresident estate or trust deducts as an other deduction or miscellaneous itemized deduction, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and
 - (b) 6%.
- (2) An estate or trust may not carry forward or carry back a tax credit under this section.
- (3) The tax credit allowed by Subsection (1) shall be reduced by \$.013 for each dollar by which an estate's or trust's taxable income exceeds \$12,000.
- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
 - (a) for purposes of Subsection (1)(a)(iv), the commission may make rules for determining what constitutes an attorney, accountant, or return preparer fee if that attorney, accountant, or return preparer fee is consistent with an attorney, accountant, or return preparer fee that may be deducted on a federal income tax return for estates and trusts; or
 - (b) for purposes of Subsection (1)(a)(v), the commission may make rules for determining what constitutes an other deduction or miscellaneous itemized deduction if that other deduction

or miscellaneous itemized deduction is consistent with an other deduction or miscellaneous itemized deduction that may be deducted on a federal income tax return for estates and trusts.

Enacted by Chapter 389, 2008 General Session

59-10-1022 Nonrefundable tax credit for capital gain transactions.

(1) As used in this section:

(a)

(i) "Capital gain transaction" means a transaction that results in a:

(A) short-term capital gain; or

(B) long-term capital gain.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "transaction."

(b) "Commercial domicile" means the principal place from which the trade or business of a Utah small business corporation is directed or managed.

(c) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.

(d) "Qualifying stock" means stock that is:

(i)

(A) common; or

(B) preferred;

(ii) as defined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, originally issued to:

(A) a claimant, estate, or trust; or

(B) a partnership if the claimant, estate, or trust that claims a tax credit under this section:

(I) was a partner on the day on which the stock was issued; and

(II) remains a partner until the last day of the taxable year for which the claimant, estate, or trust claims a tax credit under this section; and

(iii) issued:

(A) by a Utah small business corporation;

(B) on or after January 1, 2008; and

(C) for:

(I) money; or

(II) other property, except for stock or securities.

(e) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.

(f)

(i) "Utah small business corporation" means a corporation that:

(A) except as provided in Subsection (1)(f)(ii), is a small business corporation as defined in Section 1244(c)(3), Internal Revenue Code;

(B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section 1244(c)(1)(C), Internal Revenue Code; and

(C) has its commercial domicile in this state.

(ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be \$2,500,000.

(iii) The phrase "the date the loss on such stock was sustained" in Sections 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last day of the taxable year for which the claimant, estate, or trust claims a tax credit under this section."

- (2) For taxable years beginning on or after January 1, 2008, a claimant, estate, or trust that meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the product of:
 - (a) the total amount of the claimant's, estate's, or trust's short-term capital gain or long-term capital gain on a capital gain transaction that occurs on or after January 1, 2008; and
 - (b) the percentage listed in Subsection 59-10-104(2).
- (3) For purposes of Subsection (2), a claimant, estate, or trust may claim the nonrefundable tax credit allowed by Subsection (2) if:
 - (a) 70% or more of the gross proceeds of the capital gain transaction are expended:
 - (i) to purchase qualifying stock in a Utah small business corporation; and
 - (ii) within a 12-month period after the day on which the capital gain transaction occurs; and
 - (b) prior to the purchase of the qualifying stock described in Subsection (3)(a)(i), the claimant, estate, or trust did not have an ownership interest in the Utah small business corporation that issued the qualifying stock.
- (4) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:
 - (a) defining the term "gross proceeds"; and
 - (b) prescribing the circumstances under which a claimant, estate, or trust has an ownership interest in a Utah small business corporation.

Amended by Chapter 367, 2021 General Session

59-10-1023 Nonrefundable tax credit for amounts paid under a health benefit plan.

- (1) As used in this section:
 - (a) "Claimant with dependents" means a claimant:
 - (i) regardless of the claimant's filing status for purposes of filing a federal individual income tax return for the taxable year; and
 - (ii) who claims one or more dependents under Section 151, Internal Revenue Code, as allowed on the claimant's federal individual income tax return for the taxable year.
 - (b) "Eligible insured individual" means:
 - (i) the claimant who is insured under a health benefit plan;
 - (ii) the spouse of the claimant described in Subsection (1)(b)(i) if:
 - (A) the claimant files a single return jointly under this chapter with the claimant's spouse for the taxable year; and
 - (B) the spouse is insured under the health benefit plan described in Subsection (1)(b)(i); or
 - (iii) a dependent of the claimant described in Subsection (1)(b)(i) if:
 - (A) the claimant claims the dependent under Section 151, Internal Revenue Code, as allowed on the claimant's federal individual income tax return for the taxable year; and
 - (B) the dependent is insured under the health benefit plan described in Subsection (1)(b)(i).
 - (c) "Excluded expenses" means an amount a claimant pays for insurance offered under a health benefit plan for a taxable year if:
 - (i) the claimant claims a tax credit for that amount under Section 35, Internal Revenue Code:
 - (A) on the claimant's federal individual income tax return for the taxable year; and
 - (B) with respect to an eligible insured individual;
 - (ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue Code:
 - (A) on the claimant's federal individual income tax return for the taxable year; and
 - (B) with respect to an eligible insured individual; or

- (iii) the claimant excludes that amount from gross income under Section 106 or 125, Internal Revenue Code, with respect to an eligible insured individual.
- (d)
 - (i) "Health benefit plan" is as defined in Section 31A-1-301.
 - (ii) "Health benefit plan" does not include equivalent self-insurance as defined by the Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (e) "Joint claimant with no dependents" means a husband and wife who:
 - (i) file a single return jointly under this chapter for the taxable year; and
 - (ii) do not claim a dependent under Section 151, Internal Revenue Code, on the husband's and wife's federal individual income tax return for the taxable year.
- (f) "Single claimant with no dependents" means:
 - (i) a single individual who:
 - (A) files a single federal individual income tax return for the taxable year; and
 - (B) does not claim a dependent under Section 151, Internal Revenue Code, on the single individual's federal individual income tax return for the taxable year;
 - (ii) a head of household:
 - (A) as defined in Section 2(b), Internal Revenue Code, who files a single federal individual income tax return for the taxable year; and
 - (B) who does not claim a dependent under Section 151, Internal Revenue Code, on the head of household's federal individual income tax return for the taxable year; or
 - (iii) a married individual who:
 - (A) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and
 - (B) does not claim a dependent under Section 151, Internal Revenue Code, on that married individual's federal individual income tax return for the taxable year.
- (2) Subject to Subsection (3), and except as provided in Subsection (4), for taxable years beginning on or after January 1, 2009, a claimant may claim a nonrefundable tax credit equal to the product of:
 - (a) the difference between:
 - (i) the total amount the claimant pays during the taxable year for:
 - (A) insurance offered under a health benefit plan; and
 - (B) an eligible insured individual; and
 - (ii) excluded expenses; and
 - (b) the percentage listed in Subsection 59-10-104(2).
- (3) The maximum amount of a tax credit described in Subsection (2) a claimant may claim on a return for a taxable year is:
 - (a) for a single claimant with no dependents, \$300;
 - (b) for a joint claimant with no dependents, \$600; or
 - (c) for a claimant with dependents, \$900.
- (4) A claimant may not claim a tax credit under this section if the claimant is eligible to participate in insurance offered under a health benefit plan maintained and funded in whole or in part by:
 - (a) the claimant's employer; or
 - (b) another person's employer.
- (5) A claimant may not carry forward or carry back a tax credit under this section.

Amended by Chapter 367, 2021 General Session

59-10-1024 Nonrefundable tax credit for qualifying solar projects.

(1) As used in this section:

- (a) "Active solar system" means the same as that term is defined in Section 59-10-1014.
- (b) "Office" means the Office of Energy Development created in Section 79-6-401.
- (c) "Purchaser" means a claimant, estate, or trust that purchases one or more solar units from a qualifying political subdivision.
- (d) "Qualifying political subdivision" means:
 - (i) a city or town in this state;
 - (ii) an interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act; or
 - (iii) a special service district created under Title 17D, Chapter 1, Special Service District Act.
- (e) "Qualifying solar project" means the portion of an active solar system:
 - (i) that a qualifying political subdivision:
 - (A) constructs;
 - (B) controls; or
 - (C) owns;
 - (ii) with respect to which the qualifying political subdivision sells one or more solar units; and
 - (iii) that generates electrical output that is furnished:
 - (A) to one or more residential units; or
 - (B) for the benefit of one or more residential units.
- (f) "Residential unit" means the same as that term is defined in Section 59-10-1014.
- (g) "Solar unit" means a portion of the electrical output:
 - (i) of a qualifying solar project;
 - (ii) that a qualifying political subdivision sells to a purchaser; and
 - (iii) the purchase of which requires that the purchaser agree to bear a proportionate share of the expense of the qualifying solar project:
 - (A) in accordance with a written agreement between the purchaser and the qualifying political subdivision;
 - (B) in exchange for a credit on the purchaser's electrical bill; and
 - (C) as determined by a formula established by the qualifying political subdivision.

(2)

- (a) Subject to Subsections (2)(b) and (3), a purchaser may claim a nonrefundable tax credit equal to the amount stated on a tax credit certificate issued by the office.
- (b) The maximum tax credit per taxpayer per taxable year is the lesser of:
 - (i) 25% of the amount that the purchaser pays to purchase one or more solar units during the taxable year; and
 - (ii) \$2,000.

(3)

- (a) To claim a tax credit under this section, a purchaser shall receive a tax credit certificate from the office.
- (b) The purchaser shall submit, with the purchaser's application for a tax credit certificate, proof of the purchaser's purchase of one or more solar units.
- (c) If the office determines that the purchaser purchased one or more solar units during the taxable year, the office shall:
 - (i) determine the amount of the purchaser's tax credit; and
 - (ii) issue, on a form approved by the commission, a tax credit certificate to the purchaser that states the amount of the purchaser's tax credit.
- (d) If the office determines that a claimant, estate, or trust requesting a tax credit certificate is not eligible for a tax credit certificate under this section but may be eligible for a tax credit

certificate under Section 59-10-1014, the office shall treat the claimant, estate, or trust as applying for a written certification in accordance with Section 59-10-1014.

- (e) A purchaser who receives a tax credit certificate shall retain the tax credit certificate for the same time period that a person is required to keep books and records under Section 59-1-1406.
- (f) The office shall submit to the commission an electronic list that includes:
 - (i) the name and identifying information of each purchaser to whom the office issued a certificate; and
 - (ii) for each claimant, estate, or trust:
 - (A) the amount of the tax credit listed on the written certification; and
 - (B) the date or dates the claimant, estate, or trust purchased one or more solar units.
- (4) A purchaser may carry forward a tax credit under this section for a period that does not exceed the next four taxable years if:
 - (a) the purchaser is allowed to claim a tax credit under this section for a taxable year; and
 - (b) the amount of the tax credit exceeds the purchaser's tax liability under this chapter for that taxable year.
- (5) Subject to Section 59-10-1014, a tax credit under this section is in addition to any other tax credit allowed by this chapter.
- (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules to govern the application process for receiving a tax credit certificate.

Amended by Chapter 280, 2021 General Session

59-10-1025 Nonrefundable tax credit for investment in certain life science establishments.

- (1) As used in this section:
 - (a) "Commercial domicile" means the principal place from which the trade or business of a Utah small business corporation is directed or managed.
 - (b) "Eligible claimant, estate, or trust" means the same as that term is defined in Section 63N-2-802.
 - (c) "Life science establishment" means an establishment primarily engaged in the development or manufacture of products in one or more of the following categories:
 - (i) biotechnologies;
 - (ii) medical devices;
 - (iii) medical diagnostics; and
 - (iv) pharmaceuticals.
 - (d) "Office" means the Governor's Office of Economic Opportunity.
 - (e) "Pass-through entity" means the same as that term is defined in Section 59-10-1402.
 - (f) "Pass-through entity taxpayer" means the same as that term is defined in Section 59-10-1402.
 - (g) "Qualifying ownership interest" means an ownership interest that is:
 - (i)
 - (A) common stock;
 - (B) preferred stock; or
 - (C) an ownership interest in a pass-through entity;
 - (ii) originally issued to:
 - (A) an eligible claimant, estate, or trust; or
 - (B) a pass-through entity if the eligible claimant, estate, or trust that claims a tax credit under this section was a pass-through entity taxpayer of the pass-through entity on the day on which the qualifying ownership interest was issued and remains a pass-through entity

taxpayer of the pass-through entity until the last day of the taxable year for which the eligible claimant, estate, or trust claims a tax credit under this section; and

- (iii) issued:
 - (A) by a Utah small business corporation;
 - (B) on or after January 1, 2011; and
 - (C) for money or other property, except for stock or securities.
- (h)
 - (i) Except as provided in Subsection (1)(h)(ii), "Utah small business corporation" means the same as that term is defined in Section 59-10-1022.
 - (ii) For purposes of this section, a corporation under Section 1244(c)(3)(A), Internal Revenue Code, is considered to include a pass-through entity.
- (2) Subject to the other provisions of this section, for a taxable year beginning on or after January 1, 2011, an eligible claimant, estate, or trust that holds a tax credit certificate issued to the eligible claimant, estate, or trust in accordance with Section 63N-2-808 for that taxable year may claim a nonrefundable tax credit in an amount up to 35% of the purchase price of a qualifying ownership interest in a Utah small business corporation by the claimant, estate, or trust if:
 - (a) the qualifying ownership interest is issued by a Utah small business corporation that is a life science establishment;
 - (b) the qualifying ownership interest in the Utah small business corporation is purchased for at least \$25,000;
 - (c) the eligible claimant, estate, or trust owned less than 30% of the qualifying ownership interest of the Utah small business corporation at the time of the purchase of the qualifying ownership interest; and
 - (d) on each day of the taxable year in which the purchase of the qualifying ownership interest was made, the Utah small business corporation described in Subsection (2)(a) has at least 50% of its employees in the state.
- (3) Subject to Subsection (4), the tax credit under Subsection (2):
 - (a) may only be claimed by an eligible claimant, estate, or trust:
 - (i) for a taxable year for which the eligible claimant, estate, or trust holds a tax credit certificate issued in accordance with Section 63N-2-808; and
 - (ii) subject to obtaining a tax credit certificate for each taxable year as required by Subsection (3)(a)(i), for a period of three taxable years as follows:
 - (A) the tax credit in the taxable year in which the purchase of the qualifying ownership interest was made may not exceed 10% of the purchase price of the qualifying ownership interest;
 - (B) the tax credit in the taxable year after the taxable year described in Subsection (3)(a)(ii)(A) may not exceed 10% of the purchase price of the qualifying ownership interest; and
 - (C) the tax credit in the taxable year two years after the taxable year described in Subsection (3)(a)(ii)(A) may not exceed 15% of the purchase price of the qualifying ownership interest; and
 - (b) may not exceed the lesser of:
 - (i) the amount listed on the tax credit certificate issued in accordance with Section 63N-2-808; or
 - (ii) \$350,000 in a taxable year.
- (4) An eligible claimant, estate, or trust may not claim a tax credit under this section for a taxable year if the eligible claimant, estate, or trust:
 - (a) has sold any of the qualifying ownership interest during the taxable year; or

- (b) does not hold a tax credit certificate for that taxable year that is issued to the eligible claimant, estate, or trust by the office in accordance with Section 63N-2-808.
- (5) If a Utah small business corporation in which an eligible claimant, estate, or trust purchases a qualifying ownership interest fails, dissolves, or otherwise goes out of business, the eligible claimant, estate, or trust may not claim both the tax credit provided in this section and a capital loss on the qualifying ownership interest.
- (6) If an eligible claimant is a pass-through entity taxpayer that files a return under Chapter 7, Corporate Franchise and Income Taxes, the eligible claimant may claim the tax credit under this section on the return filed under Chapter 7, Corporate Franchise and Income Taxes.
- (7) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.
- (8)
 - (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.
 - (b) Except as provided in Subsection (8)(c), for purposes of the study required by this Subsection (8), the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst by electronic means:
 - (i) the amount of tax credit that the office grants to each eligible business entity for each taxable year;
 - (ii) the amount of eligible new state tax revenues generated by each eligible product or project;
 - (iii) estimates for each of the next three calendar years of the following:
 - (A) the amount of tax credit that the office will grant;
 - (B) the amount of eligible new state tax revenues that will be generated; and
 - (C) the number of new incremental jobs within the state that will be generated; and
 - (iv) any other information that the Office of the Legislative Fiscal Analyst requests.
 - (c)
 - (i) In providing the information described in Subsection (8)(b), the office shall redact information that identifies a recipient of a tax credit under this section.
 - (ii) If, notwithstanding the redactions made under Subsection (8)(c)(i), reporting the information described in Subsection (8)(b) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (8)(b) in the aggregate for all entities that receive the tax credit under this section.
 - (d) As part of the study required by this Subsection (8), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (8)(b).
 - (e) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (8)(a) include an evaluation of:
 - (i) the cost of the tax credit under this section;
 - (ii) the purpose and effectiveness of the tax credit; and
 - (iii) the extent to which the state benefits from the tax credit.

Amended by Chapter 465, 2019 General Session

59-10-1027 Nonrefundable tax credit for combat related death.

- (1) As used in this section:

- (a) "Active component of the United States Armed Forces" means active duty service in the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Space Force, or United States Coast Guard.
- (b) "Combat related death" means an individual who dies:
 - (i) on or after January 1, 2010; and
 - (ii)
 - (A) while in military service in a combat zone; or
 - (B) as a result of a wound, disease, or injury the individual incurs while in military service in a combat zone.
- (c) "Combat zone" means an area that the President of the United States designates by Executive Order as an area in which an active component of the United States Armed Forces or a reserve component of the United States Armed Forces are or have engaged in combat.
- (d) "Military service in a combat zone" means service:
 - (i) in an active component of the United States Armed Forces or reserve component of the United States Armed Forces; and
 - (ii) performed:
 - (A) on or after the date the President of the United States designates by Executive Order as the date combatant activities begin in a combat zone; and
 - (B) on or before the date the President of the United States designates by Executive Order as the date combatant activities terminate in a combat zone.
- (e) "Reserve component of the United States Armed Forces" means service in a reserve component of the armed forces listed in 10 U.S.C. Sec. 101(c) or 10 U.S.C. Sec. 10101.
- (2) A claimant, estate, or trust that files a return on behalf of an individual who dies a combat related death may claim a nonrefundable tax credit against that individual's tax liability under this chapter as provided in this section.
- (3) For purposes of Subsection (2), the tax credit is equal to the tax liability of the individual who dies a combat related death for the taxable year during which the individual dies.

Amended by Chapter 93, 2021 General Session

59-10-1028 Nonrefundable tax credit for capital gain transactions on the exchange of one form of legal tender for another form of legal tender.

- (1) As used in this section:
 - (a) "Capital gain transaction" means a transaction that results in a:
 - (i) short-term capital gain; or
 - (ii) long-term capital gain.
 - (b) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.
 - (c) "Long-term capital loss" is as defined in Section 1222, Internal Revenue Code.
 - (d) "Net capital gain" means the amount by which the sum of long-term capital gains and short-term capital gains on a claimant's, estate's, or trust's transactions from exchanges made for a taxable year of one form of legal tender for another form of legal tender exceeds the sum of long-term capital losses and short-term capital losses on those transactions for that taxable year.
 - (e) "Short-term capital loss" is as defined in Section 1222, Internal Revenue Code.
 - (f) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.
- (2) Except as provided in Section 59-10-1002.2, for taxable years beginning on or after January 1, 2012, a claimant, estate, or trust may claim a nonrefundable tax credit equal to the product of:

- (a) to the extent a net capital gain is included in taxable income, the amount of the claimant's, estate's, or trust's net capital gain on capital gain transactions from exchanges made on or after January 1, 2012, for a taxable year, of one form of legal tender for another form of legal tender; and
- (b) the percentage listed in Subsection 59-10-104(2).
- (3) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.
- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to implement this section.

Amended by Chapter 367, 2021 General Session

59-10-1029 Nonrefundable alternative energy development tax credit.

- (1) As used in this section:
 - (a) "Alternative energy entity" means the same as that term is defined in Section 79-6-502.
 - (b) "Alternative energy project" means the same as that term is defined in Section 79-6-502.
 - (c) "Office" means the Office of Energy Development created in Section 79-6-401.
- (2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy development as provided in this section.
- (3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 79, Chapter 6, Part 5, Alternative Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.
- (4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:
 - (a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and
 - (b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.
- (5)
 - (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.
 - (b)
 - (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst by electronic means:
 - (A) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;
 - (B) the new state revenues generated by each alternative energy project;
 - (C) the information contained in the office's latest report under Section 79-6-505; and
 - (D) any other information that the Office of the Legislative Fiscal Analyst requests.
 - (ii)
 - (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.
 - (B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all alternative energy entities that receive the tax credit under this section.

- (c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).
- (d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:
 - (i) the cost of the tax credit to the state;
 - (ii) the purpose and effectiveness of the tax credit; and
 - (iii) the extent to which the state benefits from the tax credit.
- (6) A claimant, estate, or trust may not claim or carry forward a tax credit described in Subsection (2) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 59-10-1106.

Amended by Chapter 482, 2023 General Session

59-10-1031 Nonrefundable tax credit for employing a recently deployed veteran.

- (1) As used in this section, "recently deployed veteran" means an individual who:
 - (a) was mobilized to active federal military service in:
 - (i) an active component of the United States Armed Forces as defined in Section 59-10-1027; or
 - (ii) a reserve component of the United States Armed Forces as defined in Section 59-10-1027; and
 - (b) received an honorable or general discharge from active federal military service under Subsection (1)(a) within the two-year period before the date the employment begins.
- (2) A claimant, estate, or trust may claim a nonrefundable tax credit as provided in this section against a tax under this chapter if the claimant, estate, or trust employs a recently deployed veteran, on or after January 1, 2012, who:
 - (a)
 - (i) is collecting or is eligible to collect unemployment benefits under Title 35A, Chapter 4, Part 4, Benefits and Eligibility; or
 - (ii) within the last two years, has exhausted the unemployment benefits under Subsection (2)(a)(i); and
 - (b) works for the claimant, estate, or trust at least 35 hours per week for not less than 45 of the 52 weeks following the recently deployed veteran's start date for the employment.
- (3) A tax credit:
 - (a) earned under this section shall be claimed beginning in the year the requirements of Subsection (2) are met;
 - (b) for the first taxable year, is equal to \$200 for each month of employment not to exceed \$2,400 for the taxable year for each recently deployed veteran; and
 - (c) for the second taxable year, is equal to \$400 for each month of employment not to exceed \$4,800 for the taxable year for each recently deployed veteran.
- (4) A claimant, estate, or trust that claims a tax credit under this section shall retain the following for each recently deployed veteran for which a tax credit is claimed under this section:
 - (a) the recently deployed veteran's:
 - (i) name;
 - (ii) taxpayer identification number;
 - (iii) last known address;
 - (iv) start date of the employment; and

- (v) documentation establishing that the recently deployed veteran was employed as required under Subsection (2)(b);
 - (b) documentation provided by the recently deployed veteran's military service unit establishing that the recently deployed veteran is a recently deployed veteran; and
 - (c) a signed statement from the Department of Workforce Services that the recently deployed veteran meets the requirements of Subsection (2)(a) regarding unemployment benefits.
- (5) At the request of the commission, a claimant, estate, or trust shall provide the information described in Subsection (4) to the commission.
- (6) A claimant, estate, or trust may carry forward a tax credit under this section for a period that does not exceed the next five taxable years if:
- (a) the claimant, estate, or trust is allowed to claim a tax credit under this section for a taxable year; and
 - (b) the amount of the tax credit exceeds the claimant, estate, or trust's tax liability under this chapter for that taxable year.

Enacted by Chapter 306, 2012 General Session

59-10-1032 Nonrefundable tax credit for employment of a person who is homeless.

- (1) As used in this section:
- (a) "Eligible employer" means a person who receives a tax credit certificate from the Department of Workforce Services in accordance with Title 35A, Chapter 5, Part 3, Tax Credit for Employment of Persons Who Are Homeless Act.
 - (b) "Person who is homeless" is as defined in Section 35A-5-302.
- (2) Subject to the other provisions of this section, an eligible employer that is a claimant, estate, or trust may claim a nonrefundable tax credit as provided in this section against a tax under this chapter.
- (3) The tax credit under this section is the amount of tax credit listed on a tax credit certificate that the Department of Workforce Services issues to an employer for a taxable year under Title 35A, Chapter 5, Part 3, Tax Credit for Employment of Persons Who Are Homeless Act.
- (4) An eligible employer may carry forward a tax credit under this section for a period that does not exceed the next five taxable years if:
- (a) the eligible employer is allowed to claim a tax credit under this section; and
 - (b) the amount of the tax credit exceeds the eligible employer's tax liability under this chapter for that taxable year.
- (5) An eligible employer shall retain a tax credit certificate the eligible employer receives from the Department of Workforce Services for the same time period a person is required to keep books and records under Section 59-1-1406.

Enacted by Chapter 315, 2014 General Session

59-10-1033.1 Tax credit related to alternative fuel heavy duty vehicles.

- (1) As used in this section:
- (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.
 - (b) "Director" means the director of the Division of Air Quality appointed under Section 19-2-107.
 - (c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to vehicle classifications established by the Federal Highway Administration.
 - (d) "Natural gas" includes compressed natural gas and liquified natural gas.
 - (e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

- (i) has never been titled or registered and has been driven less than 7,500 miles; and
 - (ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric drivetrain.
 - (f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.
 - (g) "Qualified taxpayer" means a claimant, estate, or trust that:
 - (i) purchases a qualified heavy duty vehicle; and
 - (ii) receives a tax credit certificate from the director.
 - (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and owned by a single claimant, estate, or trust.
 - (i) "Tax credit certificate" means a certificate issued by the director certifying that a claimant, estate, or trust is entitled to a tax credit as provided in this section and stating the amount of the tax credit.
- (2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise due under this chapter:
- (a) in an amount equal to:
 - (i) \$15,000, if the qualified purchase occurs during calendar year 2021;
 - (ii) \$13,500, if the qualified purchase occurs during calendar year 2022;
 - (iii) \$12,000, if the qualified purchase occurs during calendar year 2023;
 - (iv) \$10,500, if the qualified purchase occurs during calendar year 2024;
 - (v) \$9,000, if the qualified purchase occurs during calendar year 2025;
 - (vi) \$7,500, if the qualified purchase occurs during calendar year 2026;
 - (vii) \$6,000, if the qualified purchase occurs during calendar year 2027;
 - (viii) \$4,500, if the qualified purchase occurs during calendar year 2028;
 - (ix) \$3,000, if the qualified purchase occurs during calendar year 2029; and
 - (x) \$1,500, if the qualified purchase occurs during calendar year 2030; and
 - (b) if the qualified taxpayer certifies under oath that over 50% of the miles that the heavy duty vehicle that is the subject of the qualified purchase will travel annually will be within the state.
- (3)
- (a) Except as provided in Subsection (3)(b), a claimant, estate, or trust may not submit an application for, and the director may not issue to the claimant, estate, or trust, a tax credit certificate under this section in any taxable year for a qualified purchase if the director has already issued tax credit certificates to the claimant, estate, or trust for 10 qualified purchases in the same taxable year.
 - (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of tax credits under Subsection (5) has not been claimed, a claimant, estate, or trust may submit an application for, and the director may issue to the claimant, estate, or trust, one or more tax credit certificates for up to eight additional qualified purchases, even if the director has already issued to that claimant, estate, or trust tax credit certificates for the maximum number of qualified purchases allowed under Subsection (3)(a).
- (4)
- (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits available under this section for qualified taxpayers with a small fleet.
 - (b) Subsection (4)(a) does not prevent a claimant, estate, or trust from submitting an application for, or the director from issuing, a tax credit certificate if, before October 1, qualified taxpayers with a small fleet have not reserved under Subsection (5)(b) tax credits for the full amount reserved under Subsection (4)(a).
- (5)
- (a) The aggregate annual total amount of tax credits represented by tax credit certificates that the director issues under this section and Section 59-7-618.1 may not exceed \$500,000.

- (b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish a process under which a claimant, estate, or trust may reserve a potential tax credit under this section for a limited time to allow the claimant, estate, or trust to make a qualified purchase with the assurance that the aggregate limit under Subsection (5)(a) will not be met before the claimant, estate, or trust is able to submit an application for a tax credit certificate.
- (6)
 - (a)
 - (i) A claimant, estate, or trust wishing to claim a tax credit under this section shall, using forms the board requires by rule:
 - (A) submit to the director an application for a tax credit;
 - (B) provide the director proof of a qualified purchase; and
 - (C) submit to the director the certification under oath required under Subsection (2)(b).
 - (ii) Upon receiving the application, proof, and certification required under Subsection (6)(a)(i), the director shall provide the claimant, estate, or trust a written statement from the director acknowledging receipt of the proof.
 - (b) If the director determines that a claimant, estate, or trust qualifies for a tax credit under this section, the director shall:
 - (i) determine the amount of tax credit the claimant, estate, or trust is allowed under this section; and
 - (ii) provide the claimant, estate, or trust with a written tax credit certificate:
 - (A) stating that the claimant, estate, or trust has qualified for a tax credit; and
 - (B) showing the amount of tax credit for which the claimant, estate, or trust has qualified under this section.
 - (c) A qualified taxpayer shall retain the tax credit certificate.
 - (d) The director shall at least annually submit to the commission a list of all qualified taxpayers to which the director has issued a tax credit certificate and the amount of each tax credit represented by the tax credit certificates.
- (7) The tax credit under this section is allowed only:
 - (a) against a tax owed under this chapter in the taxable year by the qualified taxpayer;
 - (b) for the taxable year in which the qualified purchase occurs; and
 - (c) once per vehicle.
- (8) A qualified taxpayer may not assign a tax credit or a tax credit certificate under this section to another person.
- (9) If the qualified taxpayer receives a tax credit certificate under this section that allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this chapter for a taxable year, the qualified taxpayer may carry forward the amount of the tax credit that exceeds the tax liability for a period that does not exceed the next five taxable years.

Enacted by Chapter 371, 2021 General Session

59-10-1034 Nonrefundable high cost infrastructure development tax credit.

- (1) As used in this section:
 - (a) "High cost infrastructure project" means the same as that term is defined in Section 79-6-602.
 - (b) "Infrastructure cost-burdened entity" means the same as that term is defined in Section 79-6-602.
 - (c) "Infrastructure-related revenue" means the same as that term is defined in Section 79-6-602.
 - (d) "Office" means the Office of Energy Development created in Section 79-6-401.

- (2) Subject to the other provisions of this section, a claimant, estate, or trust that is an infrastructure cost-burdened entity may claim a nonrefundable tax credit for development of a high cost infrastructure project as provided in this section.
- (3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 79, Chapter 6, Part 6, High Cost Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the taxable year.
- (4) An infrastructure cost-burdened entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:
 - (a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this section for a taxable year; and
 - (b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax liability under this chapter for that taxable year.
- (5)
 - (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.
 - (b)
 - (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst:
 - (A) the amount of tax credit that the office grants to each infrastructure cost-burdened entity for each taxable year;
 - (B) the infrastructure-related revenue generated by each high cost infrastructure project;
 - (C) the information contained in the office's latest report under Section 79-6-605; and
 - (D) any other information that the Office of the Legislative Fiscal Analyst requests.
 - (ii)
 - (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.
 - (B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all infrastructure cost-burdened entities that receive the tax credit under this section.
 - (c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).
 - (d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:
 - (i) the cost of the tax credit to the state;
 - (ii) the purpose and effectiveness of the tax credit; and
 - (iii) the extent to which the state benefits from the tax credit.

Amended by Chapter 64, 2021 General Session

Amended by Chapter 280, 2021 General Session, (Coordination Clause)

Amended by Chapter 280, 2021 General Session

59-10-1035 Nonrefundable tax credit for contribution to state Achieving a Better Life Experience Program account.

- (1) As used in this section:
 - (a) "Account" means an account in a qualified ABLE program where the designated beneficiary of the account is a resident of this state.
 - (b) "Contributor" means a claimant, estate, or trust that:
 - (i) makes a contribution to an account; and
 - (ii) receives a statement from the qualified ABLE program itemizing the contribution.
 - (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec. 529A.
 - (d) "Qualified ABLE program" means the same as that term is defined in Section 35A-12-102.
- (2) A contributor to an account may claim a nonrefundable tax credit as provided in this section.
- (3) Subject to the other provisions of this section, the tax credit is equal to the product of:
 - (a) the percentage listed in Subsection 59-10-104(2); and
 - (b) the total amount of contributions:
 - (i) the contributor makes for the taxable year; and
 - (ii) for which the contributor receives a statement from the qualified ABLE program itemizing the contributions.
- (4) A contributor may not claim a tax credit under this section:
 - (a) for an amount of excess contribution to an account that is returned to the contributor; or
 - (b) with respect to an amount the contributor deducts on a federal income tax return.
- (5) A tax credit under this section may not be carried forward or carried back.

Amended by Chapter 367, 2021 General Session

59-10-1036 Nonrefundable tax credit for military survivor benefits.

- (1) As used in this section:
 - (a) "Dependent child" means the same as that term is defined in 10 U.S.C. Sec. 1447.
 - (b) "Reserve components" means the same as that term is described in 10 U.S.C. Sec. 10101.
 - (c) "Surviving spouse" means the same as that term is defined in 10 U.S.C. Sec. 1447.
 - (d) "Survivor benefits" means the amount paid by the federal government in accordance with 10 U.S.C. Secs. 1447 through 1455.
- (2) A surviving spouse or dependent child may claim a nonrefundable tax credit for survivor benefits if the benefits are paid due to:
 - (a) the death of a member of the armed forces or reserve components while on active duty; or
 - (b) the death of a member of the reserve components that results from a service-connected cause while performing inactive duty training.
- (3) The tax credit described in Subsection (2) is equal to the product of:
 - (a) the amount of survivor benefits that the surviving spouse or dependent child received during the taxable year; and
 - (b) the percentage listed in Subsection 59-10-104(2).
- (4) The tax credit described in Subsection (2):
 - (a) may not be carried forward or carried back; and
 - (b) applies to a taxable year beginning on or after January 1, 2017.

Amended by Chapter 367, 2021 General Session

59-10-1037 Nonrefundable enterprise zone tax credit.

- (1) As used in this section:

- (a) "Business entity" means a claimant, estate, or trust that meets the definition of "business entity" as that term is defined in Section 63N-2-202.
- (b) "Office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.
- (2) Subject to the provisions of this section, a business entity may claim a nonrefundable enterprise zone tax credit as described in Section 63N-2-213.
- (3) The enterprise zone tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.
- (4) A business entity may carry forward a tax credit under this section for a period that does not exceed the next three taxable years, if the amount of the tax credit exceeds the business entity's tax liability under this chapter for that taxable year.
- (5) A business entity may not claim or carry forward a tax credit under this part for a taxable year during which the business entity has claimed the targeted business income tax credit under Section 59-10-1112.
- (6)
 - (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.
 - (b)
 - (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study required by this Subsection (6), the office shall provide by electronic means the following information, if available to the office, for each calendar year to the Office of the Legislative Fiscal Analyst:
 - (A) the amount of tax credits provided in each development zone;
 - (B) the number of new full-time employee positions reported to obtain tax credits in each development zone;
 - (C) the amount of tax credits awarded for rehabilitating a building in each development zone;
 - (D) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone;
 - (E) the information related to the tax credit contained in the office's latest report under Section 63N-1a-306; and
 - (F) other information that the Office of the Legislative Fiscal Analyst requests.
 - (ii)
 - (A) In providing the information described in Subsection (6)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.
 - (B) If, notwithstanding the redactions made under Subsection (6)(b)(ii)(A), reporting the information described in Subsection (6)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (6)(b)(i) in the aggregate for all development zones that receive the tax credit under this section.
 - (c) As part of the study required by this Subsection (6), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (6)(b).
 - (d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (6)(a) include an evaluation of:
 - (i) the cost of the tax credit to the state;
 - (ii) the purpose and effectiveness of the tax credit; and
 - (iii) the extent to which the state benefits from the tax credit.

Amended by Chapter 282, 2021 General Session

59-10-1038 Nonrefundable rural job creation tax credit.

- (1) As used in this section, "office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.
- (2) Subject to the other provisions of this section, a taxpayer may claim a nonrefundable tax credit for rural job creation as provided in this section.
- (3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63N, Chapter 4, Part 3, Utah Rural Jobs Act, to the taxpayer for the taxable year.
- (4) If the amount of a tax credit under this section exceeds the taxpayer's tax liability under this chapter for the taxable year in which the taxpayer claims the tax credit, the taxpayer may carry forward the tax credit for:
 - (a) the next seven taxable years, if the credit-eligible contribution as defined in Section 63N-4-302 is made before November 1, 2022; or
 - (b) the next four taxable years, if the credit-eligible contribution as defined in Section 63N-4-302 is made on or after November 1, 2022.

Amended by Chapter 195, 2022 General Session

59-10-1041 Nonrefundable tax credit for donation to Special Needs Opportunity Scholarship Program.

- (1) Except as provided in Subsection (3), a claimant, estate, or trust that makes a donation to the Special Needs Opportunity Scholarship Program established in Section 53E-7-402 may claim a nonrefundable tax credit equal to 100% of the amount stated on a tax credit certificate issued in accordance with Section 53E-7-407.
- (2) If the amount of a tax credit listed on the tax credit certificate exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust:
 - (a) may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next three taxable years; and
 - (b) may carry back the amount of the tax credit that exceeds the claimant's, estate's, or trust's tax liability to the previous taxable year.
- (3) A claimant, estate, or trust may not claim a credit described in Subsection (1) to the extent the claimant, estate, or trust claims a donation described in Subsection (1) as an itemized deduction on the claimant's, estate's, or trust's federal individual income tax return for that taxable year.

Amended by Chapter 262, 2022 General Session

59-10-1042 Nonrefundable tax credit for social security benefits.

- (1) As used in this section:
 - (a) "Head of household filing status" means the same as that term is defined in Section 59-10-1018.
 - (b) "Joint filing status" means the same as that term is defined in Section 59-10-1018.
 - (c) "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.
- (d) "Modified adjusted gross income" means the sum of the following for a claimant or, if the claimant's return under this chapter is allowed a joint filing status, the claimant and the claimant's spouse:
 - (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)(d)(i); and
 - (iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)(d)(i).
- (e) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.
- (f) "Social security benefit" means an amount received by a claimant as a monthly benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.
- (2) Except as provided in Section 59-10-1002.2 and Subsections (3) and (4), each claimant on a return that receives a social security benefit may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the product of:
 - (a) the percentage listed in Subsection 59-10-104(2); and
 - (b) the claimant's social security benefit that is included in adjusted gross income on the claimant's federal income tax return for the taxable year.
- (3) A claimant may not:
 - (a) carry forward or carry back the amount of a tax credit under this section that exceeds the claimant's tax liability for the taxable year; or
 - (b) claim a tax credit under this section for a taxable year if a tax credit under Section 59-10-1019 is claimed on the claimant's return for the same taxable year.
- (4) The tax credit allowed by Subsection (2) claimed on a 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, \$37,500;
 - (b) for a federal individual income tax return that is allowed a single filing status, \$45,000;
 - (c) for a federal individual income tax return that is allowed a head of household filing status, \$75,000; or
 - (d) for a return under this chapter that is allowed a joint filing status, \$75,000.
- (5) 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.

Amended by Chapter 459, 2023 General Session

59-10-1043 Nonrefundable tax credit for military retirement.

- (1) As used in this section:
 - (a)
 - (i) "Military retirement pay" means retirement pay, including survivor benefits, that relates to service in the armed forces or the reserve components, as described in 10 U.S.C. Sec. 10101.
 - (ii) "Military retirement pay" does not include:
 - (A) Social Security income;

- (B) 401(k) or IRA distributions; or
- (C) income from other sources.
- (b) "Survivor benefits" means the retired pay portion of the benefits described in 10 U.S.C. Secs. 1447 through 1455.
- (2) Except as provided in Section 59-10-1002.2, a claimant who receives military retirement pay may claim a nonrefundable tax credit against taxes equal to the product of:
 - (a) the percentage listed in Subsection 59-10-104(2); and
 - (b) the amount of military retirement pay that is included in adjusted gross income on the claimant's federal income tax return for the taxable year.
- (3) A claimant may not:
 - (a) carry forward or carry back the amount of a tax credit that exceeds the claimant's tax liability for the taxable year; or
 - (b) claim a tax credit under this section for a taxable year if a tax credit under Section 59-10-1019 is claimed on the claimant's return for the same taxable year.

Amended by Chapter 258, 2022 General Session

59-10-1044 Nonrefundable earned income tax credit.

- (1) As used in this section:
 - (a) "Federal earned income tax credit" means the federal earned income tax credit described in Section 32, Internal Revenue Code.
 - (b) "Qualifying claimant" means a resident or nonresident individual who:
 - (i) qualifies for and claims the federal earned income tax credit for the current taxable year; and
 - (ii) earns income in Utah that is reported on a W-2 form.
- (2) Subject to Section 59-10-1002.2, a qualifying claimant may claim a nonrefundable earned income tax credit equal to the lesser of:
 - (a) 20% of the amount of the federal earned income tax credit that the qualifying claimant was entitled to claim on a federal income tax return for the current taxable year; and
 - (b) the total Utah wages reported on the qualifying claimant's W-2 form for the current taxable year.
- (3) A qualifying claimant may not carry forward or carry back the amount of the earned income tax credit that exceeds the qualifying claimant's tax liability.

Amended by Chapter 459, 2023 General Session

59-10-1045 Nonrefundable tax credit for taxes paid by pass-through entity.

- (1) As used in this section, "taxed pass-through entity taxpayer" means a resident or nonresident individual who:
 - (a) has income attributed to the individual by a pass-through entity;
 - (b) receives the income described in Subsection (1)(a) after the pass-through entity pays the tax described in Subsection 59-10-1403.2(2); and
 - (c) adds the amount of tax paid on the income described in Subsection (1)(a) to adjusted gross income in accordance with Subsection 59-10-114(1)(i).
- (2)
 - (a) A taxed pass-through entity taxpayer may claim a nonrefundable tax credit for the taxes imposed under Subsection 59-10-1403.2(2).
 - (b) The tax credit is equal to the amount of the tax paid under Subsection 59-10-1403.2(2) by the pass-through entity on the income attributed to the taxed pass-through entity taxpayer.

- (3)
 - (a) A taxed pass-through entity taxpayer may carry forward the amount of the tax credit that exceeds the taxed pass-through entity taxpayer's tax liability for a period that does not exceed the next five taxable years.
 - (b) A taxed pass-through entity taxpayer may not carry back the amount of the tax credit that exceeds the taxed pass-through entity taxpayer's tax liability for the taxable year.

Amended by Chapter 470, 2023 General Session

59-10-1046 Nonrefundable adoption expense tax credit.

- (1) As used in this section:
 - (a) "Adoption expense" means a reasonable and necessary adoption fee, court cost, attorney fee, or other expense that is:
 - (i) directly related to, and for the primary purpose of, adoption of a qualifying child through a domestic adoption;
 - (ii) not incurred in violation of federal or state law or in carrying out any surrogate parenting arrangement; and
 - (iii) not paid or reimbursed by any employer or state assistance program.
 - (b) "Domestic adoption" means an adoption of a child who is a United States citizen or a resident of the United States or its possessions before the adoption effort begins.
 - (c)
 - (i) "Qualifying child" means an individual who is under 18 years old.
 - (ii) "Qualifying child" does not include an individual who is a child of the claimant's spouse.
 - (d) "Qualifying claimant" means a claimant:
 - (i) whose adjusted gross income on a federal tax return is:
 - (A) for a claimant who files the federal tax return jointly with the claimant's spouse, \$55,000 or more but less than \$110,000; or
 - (B) for a claimant who files the federal tax return other than jointly, \$27,500 or more but less than \$55,000;
 - (ii) who did not, and if the claimant is married, whose spouse did not, receive state or federal assistance during the taxable year in which the adoption is finalized; and
 - (iii) who applies for and receives a certification described in Section 35A-1-111 from the Department of Workforce Services.
 - (e)
 - (i) "State or federal assistance" means public funds that are:
 - (A) expended for the benefit of an individual in need of financial, medical, food, housing, or related assistance;
 - (B) means tested; and
 - (C) provided by a state or the federal government.
 - (ii) "State or federal assistance" includes:
 - (A) the Medicaid program, as defined in Section 26B-3-101;
 - (B) the Employment Support Act described in Title 35A, Chapter 3, Employment Support Act;
 - (C) the Children's Health Insurance Program created in Title 26B, Chapter 3, Utah Children's Health Insurance Act;
 - (D) the Supplemental Nutrition Assistance Program established in 7 U.S.C. Chapter 51, Supplemental Nutrition Assistance Program;
 - (E) the Women, Infants, and Children Program established in 42 U.S.C. Sec. 1786;
 - (F) the federal Social Security Act; and

- (G) housing assistance.
- (iii) "State or federal assistance" does not include an income tax credit, subtraction, or deduction.
- (2) Subject to Section 59-10-1002.2, a qualifying claimant may claim, in the taxable year in which the adoption is finalized, a nonrefundable tax credit equal to the lesser of:
 - (a) \$3,500; or
 - (b) the amount of the qualifying claimant's adoption expenses.
- (3) A qualifying claimant may carry forward, to the next three taxable years, the amount of any tax credit that exceeds the qualifying claimant's tax liability for the taxable year.
- (4) A qualifying claimant may not claim a credit under this section to the extent that the qualifying claimant claims a federal tax credit under 26 U.S.C. Sec. 23 for the same adoption expense.
- (5) A qualifying claimant who is married may claim a tax credit under this section only if the qualifying claimant and the qualifying claimant's spouse file a joint federal income tax return.

Enacted by Chapter 460, 2023 General Session

59-10-1047 Nonrefundable child tax credit.

- (1) As used in this section:
 - (a) "Joint filing status" means the same as that term is defined in Section 59-10-1018.
 - (b) "Head of household filing status" means the same as that term is defined in Section 59-10-1018.
 - (c) "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.
 - (d) "Modified adjusted gross income" means the sum of the following for a claimant or, if the claimant's federal individual income tax return is allowed a joint filing status, the claimant and the claimant's spouse:
 - (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)(d)(i); and
 - (iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)(d)(i).
 - (e) "Qualifying child" means an individual:
 - (i) with respect to whom the claimant is allowed to claim a tax credit under Section 24, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year; and
 - (ii) who is at least one year old and younger than four years old on the last day of the claimant's taxable year.
 - (f) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.
- (2) Subject to Subsection 59-10-1002.2, a claimant may claim a nonrefundable tax credit of \$1,000 for each qualifying child.
- (3) A claimant may not carry forward or carry back the amount of the tax credit that exceeds the claimant's tax liability.

- (4) The tax credit allowed by Subsection (2) claimed on a return filed under this part shall be reduced by \$.10 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, \$27,000;
 - (b) for a federal individual income tax return that is allowed a single filing status or head of household filing status, \$43,000; and
 - (c) for a federal individual income tax return under this chapter that is allowed a joint filing status, \$54,000.

Enacted by Chapter 462, 2023 General Session