Part 1
Determination and Reporting of Tax Liability and Information

59-10-101 Short title.

This chapter is known as the "Individual Income Tax Act."

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-103 Definitions.

(1) As used in this chapter:

(a)

(i) "Adjusted gross income":

(A) for a resident or nonresident individual, means the same as that term is defined in Section 62, Internal Revenue Code; or

(B) for a resident or nonresident estate or trust, is as calculated in Section 67(e), Internal Revenue Code.

(ii) "Adjusted gross income" does not include:

(A) income received from a loan forgiven in accordance with 15 U.S.C. Sec. 636(a) (36), to the extent that a deduction for the expenditures paid with the loan is disallowed, or a similar paycheck protection loan that is authorized by the federal government, provided in response to COVID-19, forgiven if the borrower meets the expenditure requirements, and exempt from federal income tax, to the extent that a deduction for the expenditures paid with the loan is disallowed; or

(B) an amount that an individual receives in accordance with Section 6428, Internal Revenue Code, or an amount that an individual receives that is authorized by the federal government as a tax credit for the 2020 tax year, provided in response to COVID-19, paid in advance of the filing of the individual's 2020 federal income tax return, and exempt from federal income tax.

(b) "Corporation" includes:

(i) an association;

(ii) a joint stock company; and

(iii) an insurance company.

(c) "COVID-19" means:

(i) the severe acute respiratory syndrome coronavirus 2; or

(ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

(d) "Distributable net income" means the same as that term is defined in Section 643, Internal Revenue Code.

(e) "Employee" means the same as that term is defined in Section 59-10-401.

(f) "Employer" means the same as that term is defined in Section 59-10-401.

(g) "Federal taxable income":

(i) for a resident or nonresident individual, means taxable income as defined by Section 63, Internal Revenue Code; or

(ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and (b), Internal Revenue Code.

(h) "Fiduciary" means:

(i) a guardian;

(ii) a trustee;

(iii) an executor;
(iv) an administrator;
(v) a receiver;
(vi) a conservator; or
(vii) any person acting in any fiduciary capacity for any individual.

(i) "Guaranteed annuity interest" means the same as that term is defined in 26 C.F.R. Sec. 1.170A-6(c)(2).

(j) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the homesteaded land that was held to have been diminished from the Uintah and Ouray Reservation in Hagen v. Utah, 510 U.S. 399 (1994).

(k) "Individual" means a natural person and includes aliens and minors.

(l) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate all or part of the trust without the consent of a person who has a substantial beneficial interest in the trust and the interest would be adversely affected by the exercise of the settlor's power to revoke or terminate all or part of the trust.

(m) "Military service" means the same as that term is defined in Pub. L. No. 108-189, Sec. 101.

(n) "Nonresident individual" means an individual who is not a resident of this state.

(o) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a resident estate or trust.

(p)
(i) "Partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization:
(A) through or by means of which any business, financial operation, or venture is carried on; and
(B) that is not, within the meaning of this chapter, a trust, an estate, or a corporation.
(ii) "Partnership" does not include any organization not included under the definition of "partnership" in Section 761, Internal Revenue Code.
(iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or organization described in Subsection (1)(p)(i).

(q) "Pass-through entity" means the same as that term is defined in Section 59-10-1402.

(r) "Pass-through entity taxpayer" means the same as that term is defined in Section 59-10-1402.

(s) "Qualified nongrantor charitable lead trust" means a trust:
(i) that is irrevocable;
(ii) that has a trust term measured by:
(A) a fixed term of years; or
(B) the life of a person living on the day on which the trust is created;
(iii) under which:
(A) a portion of the value of the trust assets is distributed during the trust term:
(I) to an organization described in Section 170(c), Internal Revenue Code; and
(II) as a guaranteed annuity interest or a unitrust interest; and
(B) assets remaining in the trust at the termination of the trust term are distributed to a beneficiary:
(I) designated in the trust; and
(II) that is not an organization described in Section 170(c), Internal Revenue Code;
(iv) for which the trust is allowed a deduction under Section 642(c), Internal Revenue Code; and
(v) under which the grantor of the trust is not treated as the owner of any portion of the trust for federal income tax purposes.

(t) "Resident individual" means an individual who is domiciled in this state for any period of time during the taxable year, but only for the duration of the period during which the individual is domiciled in this state.
(u) "Resident estate" or "resident trust" means the same as that term is defined in Section 75-7-103.
(v) " Service member" means the same as that term is defined in Pub. L. No. 108-189, Sec. 101.
(w) "State income tax percentage for a nonresident estate or trust" means a percentage equal to a nonresident estate's or trust's state taxable income for the taxable year divided by the nonresident estate's or trust's total adjusted gross income for that taxable year after making the adjustments required by:
(i) Section 59-10-202;
(ii) Section 59-10-207;
(iii) Section 59-10-209.1; or
(iv) Section 59-10-210.
(x) "State income tax percentage for a nonresident individual" means a percentage equal to a nonresident individual's state taxable income for the taxable year divided by the difference between:
(i) subject to Section 59-10-1405, the nonresident individual's total adjusted gross income for that taxable year, after making the:
(A) additions and subtractions required by Section 59-10-114; and
(B) adjustments required by Section 59-10-115; and
(ii) if the nonresident individual described in Subsection (1)(x)(i) is a service member, the compensation the service member receives for military service if the service member is serving in compliance with military orders.
(y) "State income tax percentage for a part-year resident individual" means, for a taxable year, a fraction:
(i) the numerator of which is the sum of:
(A) subject to Section 59-10-1404.5, for the time period during the taxable year that the part-year resident individual is a resident, the part-year resident individual's total adjusted gross income for that time period, after making the:
(I) additions and subtractions required by Section 59-10-114; and
(II) adjustments required by Section 59-10-115; and
(B) for the time period during the taxable year that the part-year resident individual is a nonresident, an amount calculated by:
(I) determining the part-year resident individual's adjusted gross income for that time period, after making the:
(Aa) additions and subtractions required by Section 59-10-114; and
(Bb) adjustments required by Section 59-10-115; and
(II) calculating the portion of the amount determined under Subsection (1)(y)(i)(B)(I) that is derived from Utah sources in accordance with Section 59-10-117; and
(ii) the denominator of which is the difference between:
(A) the part-year resident individual's total adjusted gross income for that taxable year, after making the:
(I) additions and subtractions required by Section 59-10-114; and
(II) adjustments required by Section 59-10-115; and
(B) if the part-year resident individual is a service member, any compensation the service member receives for military service during the portion of the taxable year that the service

member is a nonresident if the service member is serving in compliance with military orders.

(z) "Taxable income" or "state taxable income":

(i) subject to Section 59-10-1404.5, for a resident individual, means the resident individual's adjusted gross income after making the:

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

(B) adjustments required by Section 59-10-115;

(ii) for a nonresident individual, is an amount calculated by:

(A) determining the nonresident individual's adjusted gross income for the taxable year, after making the:

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

(II) adjustments required by Section 59-10-115; and

(B) calculating the portion of the amount determined under Subsection (1)(z)(ii)(A) that is derived from Utah sources in accordance with Section 59-10-117;

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

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

(aa) "Taxpayer" means any of the following that has income subject in whole or part to the tax imposed by this chapter:

(i) an individual;

(ii) an estate, a trust, or a beneficiary of an estate or a trust that is not a pass-through entity or a pass-through entity taxpayer;

(iii) a pass-through entity; or

(iv) a pass-through entity taxpayer.

(bb) "Trust term" means a time period:

(i) beginning on the day on which a qualified nongrantor charitable lead trust is created; and

(ii) ending on the day on which the qualified nongrantor charitable lead trust described in Subsection (1)(bb)(i) terminates.

(cc) "Uintah and Ouray Reservation" means the lands recognized as being included within the Uintah and Ouray Reservation in:

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

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

(dd) "Unadjusted income" means an amount equal to the difference between:

(i) the total income required to be reported by a resident or nonresident estate or trust on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and

(ii) the sum of the following:

(A) fees paid or incurred to the fiduciary of a resident or nonresident estate or trust:

(I) for administering the resident or nonresident estate or trust; and

(II) that the resident or nonresident estate or trust deducts as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;

(B) the income distribution deduction that a resident or nonresident estate or trust deducts under Section 651 or 661, Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;

(C) the amount that a resident or nonresident estate or trust deducts as a deduction for estate tax or generation skipping transfer tax under Section 691(c), Internal Revenue Code, 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

(D) the amount that a resident or nonresident estate or trust deducts as a personal exemption under Section 642(b), Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year.

(ee) "Unitrust interest" means the same as that term is defined in 26 C.F.R. Sec. 1.170A-6(c)(2).

(ff) "Ute tribal member" means an individual who is enrolled as a member of the Ute Indian Tribe of the Uintah and Ouray Reservation.

(gg) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

(hh) "Wages" means the same as that term is defined in Section 59-10-401.

(2)

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

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

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

Amended by Chapter 44, 2023 General Session

59-10-103.1 Information to be contained on individual income tax returns or booklets.

(1) The commission shall print the phrase "all state income tax dollars support education, children, and individuals with disabilities" on:

(a) the first page of an individual income tax return; and

(b) the cover page of an individual income tax forms and instructions booklet.

(2) The commission shall include on an individual income tax return a statement for a property owner to declare that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for that property owner's primary residence.

Amended by Chapter 258, 2022 General Session

59-10-104 Tax basis -- Tax rate -- Exemption.

(1) A tax is imposed on the state taxable income of a resident individual as provided in this section.

(2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the product of:

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

(b) 4.55%.

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

Amended by Chapter 255, 2024 General Session

59-10-104.1 Exemption from taxation.

(1) For purposes of this section:

(a) "Personal exemptions" means the total exemption amount an individual is allowed to claim for the taxable year under Section 151, Internal Revenue Code, for:
(i) the individual;
(ii) the individual's spouse; and
(iii) the individual's dependents.
(b) "Standard deduction":
(i) means the standard deduction an individual is allowed to claim for the taxable year under Section 63, Internal Revenue Code; and
(ii) notwithstanding Subsection (1)(b)(i), does not include an additional amount allowed under Section 63(f), Internal Revenue Code, for an individual or an individual's spouse who is:
(A) blind; or
(B) 65 years of age or older.
(2) For taxable years beginning on or after January 1, 2002, an individual is exempt from a tax imposed by Section 59-10-104 or 59-10-116 if the individual's adjusted gross income on the individual's federal individual income tax return for the taxable year is less than or equal to the sum of the individual's:
(a) personal exemptions for that taxable year; and
(b) standard deduction for that taxable year.

Amended by Chapter 389, 2008 General Session

59-10-110 Disallowance of federal tax credits.

A credit applied directly to the income tax calculated for federal income tax purposes in accordance with the Internal Revenue Code may not be applied in calculating the tax due under this chapter.

Amended by Chapter 389, 2008 General Session

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

(1) There shall be added to adjusted gross income of a resident or nonresident individual:
(a) a lump sum distribution that the taxpayer does not include in adjusted gross income on the taxpayer's federal individual income tax return for the taxable year;
(b) the amount of a child's income calculated under Subsection (4) that:
(i) a parent elects to report on the parent's federal individual income tax return for the taxable year; and
(ii) the parent does not include in adjusted gross income on the parent's federal individual income tax return for the taxable year;
(c)
(i) a withdrawal from a medical care savings account and any penalty imposed for the taxable year if:
(A) the resident or nonresident individual does not deduct the amounts on the resident or nonresident individual's federal individual income tax return under Section 220, Internal Revenue Code;
(B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and
(C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a return the resident or nonresident individual files under this chapter;
(ii) a disbursement required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(3); or

(iii) an amount required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(5)(c);

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

(i) is not expended for:

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

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

(ii) is:

(A) subtracted by the resident or nonresident individual:

(I) who is the account owner; and

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

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

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

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

(A) a state other than this state;

(B) the District of Columbia;

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

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

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

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

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

(h) any adoption expense:

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

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

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

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

(i) the amount of tax paid on income attributed to the individual in accordance with Subsection 59-10-1403.2(2) that is not included in adjusted gross income; and

(j) the amount of tax paid:

(i) on income attributed to the individual and taxable in this state, that is not included in adjusted gross income;
(ii) to another state; and
(iii) that the commission determines is substantially similar to the tax imposed under Subsection 59-10-1403.2(2).
(2) There shall be subtracted from adjusted gross income of a resident or nonresident individual:
(a) the difference between:
(i) the interest or a dividend on an obligation or security of the United States or an authority, commission, instrumentality, or possession of the United States, to the extent that interest or dividend is:
(A) included in adjusted gross income for federal income tax purposes for the taxable year; and
(B) exempt from state income taxes under the laws of the United States; and
(ii) any interest on indebtedness incurred or continued to purchase or carry the obligation or security described in Subsection (2)(a)(i);
(b) if the conditions of Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:
(i) during a time period that the Ute tribal member resides on homesteaded land diminished from the Uintah and Ouray Reservation; and
(ii) from a source within the Uintah and Ouray Reservation;
(c) an amount received by a resident or nonresident individual or distribution received by a resident or nonresident beneficiary of a resident trust:
(i) if that amount or distribution constitutes a refund of taxes imposed by:
(A) a state; or
(B) the District of Columbia; and
(ii) to the extent that amount or distribution is included in adjusted gross income for that taxable year on the federal individual income tax return of the resident or nonresident individual or resident or nonresident beneficiary of a resident trust;
(d) the amount of a railroad retirement benefit:
(i) paid:
(A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq.;
(B) to a resident or nonresident individual; and
(C) for the taxable year; and
(ii) to the extent that railroad retirement benefit is included in adjusted gross income on that resident or nonresident individual's federal individual income tax return for that taxable year;
(e) an amount:
(i) received by an enrolled member of an American Indian tribe; and
(ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that amount in accordance with:
(A) federal law;
(B) a treaty; or
(C) a final decision issued by a court of competent jurisdiction;
(f) an amount received:
(i) for the interest on a bond, note, or other obligation issued by an entity for which state statute provides an exemption of interest on its bonds from state individual income tax;
(ii) by a resident or nonresident individual;
(iii) for the taxable year; and

(iv) to the extent the amount is included in adjusted gross income on the taxpayer's federal income tax return for the taxable year;

(g) the amount of all income, including income apportioned to another state, of a nonmilitary spouse of an active duty military member if:

(i) both the nonmilitary spouse and the active duty military member are nonresident individuals;

(ii) the active duty military member is stationed in Utah;

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

(iv) the income is included in adjusted gross income for federal income tax purposes for the taxable year;

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

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

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

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

(j) an amount of a distribution from a qualified retirement plan under Section 401(a), Internal Revenue Code, if:

(i) the amount of the distribution is included in adjusted gross income on the resident or nonresident individual's federal individual income tax return for the taxable year; and

(ii) for the taxable year when the amount of the distribution was contributed to the qualified retirement plan, the amount of the distribution:

(A) was not included in adjusted gross income on the resident or nonresident individual's federal individual income tax return for the taxable year; and

(B) was taxed by another state of the United States, the District of Columbia, or a possession of the United States.

(3)

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

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

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

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

(i) may not:

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

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

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

(ii) shall:

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

(B) be in writing;

(C) be signed by:

(I) the governor; and

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

(D) be conditioned on obtaining any approval required by federal law; and
(E) state the effective date of the agreement.
(c)
(i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection (3) is in effect.
(ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or after the January 1 following the termination of the agreement.
(d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:
(i) for determining whether income is derived from a source within the Uintah and Ouray Reservation; and
(ii) that are substantially similar to how adjusted gross income derived from Utah sources is determined under Section 59-10-117.
(4)
(a) For purposes of this Subsection (4), "Form 8814" means:
(i) the federal individual income tax Form 8814, Parents' Election To Report Child's Interest and Dividends; or
(ii)
(A) a form designated by the commission in accordance with Subsection (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814; and
(B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814.
(b) The amount of a child's income added to adjusted gross income under Subsection (1)(b) is equal to the difference between:
(i) the lesser of:
(A) the base amount specified on Form 8814; and
(B) the sum of the following reported on Form 8814:
(I) the child's taxable interest;
(II) the child's ordinary dividends; and
(III) the child's capital gain distributions; and
(ii) the amount not taxed that is specified on Form 8814.
(5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(e)(i)(A) through (D) may not be added to adjusted gross income of a resident or nonresident individual if, as annually determined by the commission:
(a) for an entity described in Subsection (1)(e)(i)(A) or (B), the entity and all of the political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state; or
(b) for an entity described in Subsection (1)(e)(i)(C) or (D), the following do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state:

(i) the entity; or
(ii)
(A) the state in which the entity is located; or
(B) the District of Columbia, if the entity is located within the District of Columbia.

Amended by Chapter 470, 2023 General Session

59-10-115 Adjustments to adjusted gross income.

(1) As used in this section:
(a) "Net foreign source taxable income" means:
(i) the amount calculated on line 17 of Internal Revenue Code Form 1116, Foreign Tax Credit; or
(ii) if, for purposes of federal individual income taxes, the amount calculated on line 17 of Form 1116 is reported on a line other than line 17 of Form 1116, the amount on a line of a federal individual income tax form designated by the commission as being substantially similar to line 17 of the 2015 version of Form 1116.
(b) "Pass-through entity taxpayer" means the same as that term is defined in Section 59-10-1402.
(2) The commission shall allow an adjustment to adjusted gross income of a resident or nonresident individual if the resident or nonresident individual would otherwise:
(a) receive a double tax benefit under this part; or
(b) suffer a double tax detriment under this part.
(3)
(a) For a pass-through entity taxpayer generating taxable income primarily from establishments classified in Code Section 33242, Metal Tank (Heavy Gauge) Manufacturing, of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, an adjustment described in Subsection (2) includes net foreign source taxable income generated from Metal Tank (Heavy Gauge) Manufacturing establishments.
(b) The adjustment described in Subsection (3)(a) applies to a taxable year beginning on or after January 1, 2017.
(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:
(a) making the designation described in Subsection (1)(a)(ii), if necessary; and
(b) allowing for the adjustment to adjusted gross income required by Subsection (2).

Amended by Chapter 374, 2016 General Session

59-10-116 Tax on nonresident individual -- Calculation -- Exemption.

(1) Except as provided in Subsection (2), a tax is imposed on a nonresident individual in an amount equal to the product of the:
(a) nonresident individual's state taxable income; and
(b) percentage listed in Subsection 59-10-104(2).
(2) This section does not apply to a nonresident individual:
(a) exempt from taxation under Section 59-10-104.1; or
(b) whose only state source income is wages that are excluded in accordance with Section 59-10-117.5.

Amended by Chapter 252, 2022 General Session

59-10-116.1 Exemption for out-of-state employee.

(1) As used in this section:
(a) "Declared state disaster or emergency" is as defined in Section 53-2a-1202.
(b) "Disaster period" is as defined in Section 53-2a-1202.
(c) "Out-of-state business" is as defined in Section 53-2a-1202.
(d) "Out-of-state employee" is as defined in Section 53-2a-1202.
(2) An out-of-state employee, including a pass-through entity taxpayer who is an out-of-state employee, is exempt from a tax under this chapter for income earned or passed through:
(a) from an out-of-state business;
(b) during a disaster period; and
(c) as a result of the out-of-state business responding to a declared state disaster or emergency.

Enacted by Chapter 376, 2014 General Session

59-10-117 State taxable income derived from Utah sources.

(1) For purposes of Section 59-10-116, state taxable income derived from Utah sources includes state taxable income attributable to or resulting from:
(a) the ownership in this state of any interest in real or tangible personal property, including real property or property rights from which gross income from mining as described by Section 613(c), Internal Revenue Code, is derived;
(b) the carrying on of a business, trade, profession, or occupation in this state;
(c) an addition to adjusted gross income required by Subsection 59-10-114(1)(c), (d), or (h) to the extent that the addition was previously subtracted from state taxable income;
(d) a subtraction from adjusted gross income required by Subsection 59-10-114(2)(c) for a refund described in Subsection 59-10-114(2)(c) to the extent that the refund subtracted is related to a tax imposed by this state; or
(e) an adjustment to adjusted gross income required by Section 59-10-115 to the extent the adjustment is related to an item described in Subsections (1)(a) through (d).
(2) For purposes of Subsection (1):
(a) income from intangible personal property, including annuities, dividends, interest, and gains from the disposition of intangible personal property, shall constitute income derived from Utah sources only to the extent that the income is from property employed in a trade, business, profession, or occupation carried on in this state;
(b) a deduction with respect to a capital loss, net long-term capital gain, or net operating loss shall be:
(i) based solely on income, gain, loss, and deduction connected with Utah sources, under rules prescribed by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
(ii) otherwise determined in the same manner as the corresponding federal deductions;
(c) a salary, wage, commission, or compensation for personal services rendered:
(i) subject to Section 59-10-117.5, inside this state is considered to be income derived from Utah sources; and
(ii) outside this state may not be considered to be income derived from Utah sources;
(d) a share of income, gain, loss, deduction, or credit of a nonresident pass-through entity taxpayer, as defined in Section 59-10-1402, derived from or connected with Utah sources shall be determined in accordance with Section 59-10-118;

(e) a nonresident, other than a dealer holding property primarily for sale to customers in the ordinary course of the dealer's trade or business, may not be considered to carry on a trade, business, profession, or occupation in this state solely by reason of the purchase or sale of property for the nonresident's own account;
(f) if a trade, business, profession, or occupation is carried on partly within and partly without this state:
(i) an item of income, gain, loss, or a deduction derived from or connected with Utah sources shall be determined in accordance with Section 59-10-118; and
(ii) a salary, a wage, a commission, or compensation for personal services rendered is not considered to be an item of income from the carrying on of a business, trade, profession, or occupation;
(g) the share of a nonresident estate or trust or a nonresident beneficiary of any estate or trust in income, gain, loss, or deduction derived from or connected with Utah sources shall be determined under Section 59-10-207; and
(h) any dividend, interest, or distributive share of income, gain, or loss from a real estate investment trust, as defined in Section 59-7-101, distributed or allocated to a nonresident investor in the trust, including any shareholder, beneficiary, or owner of a beneficial interest in the trust, shall:
(i) be income from intangible personal property under Subsection (2)(a); and
(ii) constitute income derived from Utah sources only to the extent the nonresident investor is employing its beneficial interest in the trust in a trade, business, profession, or occupation carried on by the investor in this state.

Amended by Chapter 252, 2022 General Session

59-10-117.5 Nonresident individual wage exemption.
(1) As used in this section:
(a) "Day" means any period of time during a calendar day that an individual is present in the state, unless the presence is solely for transportation through the state.
(b) "Wages" means income that:
(i) is received by an individual for employment duties performed inside this state; and
(ii) would be subject to withholding in accordance with Section 59-10-402 without regard to Subsection 59-10-402(5)(a).
(2) A nonresident individual's wages may not be considered income derived from Utah sources if:
(a) the nonresident individual has no other income from sources within this state for the taxable year in which the nonresident individual receives the wages;
(b) the nonresident individual is present in this state to perform employment duties for 20 or fewer days during the tax year; and
(c) the nonresident individual's state of residence:
(i) provides a substantially similar exclusion; or
(ii) does not impose a state individual income tax.
(3) This section does not apply to wages received by:
(a) an individual who is a professional athlete or a member of a professional athletic team;
(b) an individual who is a professional entertainer and who performs services in the professional performing arts;
(c) an individual of prominence who performs services for wages on a per-event basis;
(d) an individual who performs construction services to improve real property, predominantly on a construction site, as a laborer;

(e) an individual who is a key employee, without regard to ownership or the existence of a benefit plan, for the year immediately preceding the current tax year pursuant to Subsection 416(i), Internal Revenue Code; or
(f) an individual who is an employee of a non-corporate employer, and who would be a key employee without regard to ownership or the existence of a benefit plan, for the year immediately preceding the current tax year pursuant to Subsection 416(i), Internal Revenue Code, if:
(i) the term "employee" were substituted for the term "officer"; and
(ii) the individual is one of the non-corporate employer's 50 highest paid employees without regard to whether the individual is an officer.

Enacted by Chapter 252, 2022 General Session

59-10-118 Division of income for tax purposes.
(1) As used in this section:
(a)
(i) Except as provided in Subsection (1)(a)(ii), "business income" means income arising from transactions and activity in the regular course of a taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations.
(ii) "Business income" does not include a salary, a wage, a commission, or compensation for personal services rendered.
(b) "Commercial domicile" means the principal place from which the trade or business of a taxpayer is directed or managed.
(c) "Nonbusiness income" means all income other than business income.
(d) "Sales" means all gross receipts of a taxpayer not allocated under Subsections (3) through (7).
(e) "State" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any possession of the United States.
(2) A taxpayer having business income that is taxable both within and without this state shall allocate and apportion the taxpayer's net income as provided in this section.
(3) Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that rents and royalties constitute nonbusiness income, shall be allocated as provided in Subsections (4) through (7).
(4)
(a) Net rents and royalties from real property located in this state are allocable to this state.
(b) Net rents and royalties from tangible personal property are allocable to this state:
(i) if and to the extent that the property is utilized in this state; or
(ii) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.
(c)
(i) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year.

(ii) If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(5)

(a) Capital gains and losses from sales of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales of tangible personal property are allocable to this state if:

(i) the property has a situs in this state at the time of the sale; or

(ii) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

(6) Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

(7)

(a) Patent and copyright royalties are allocable to this state:

(i) if and to the extent that the patent or copyright is utilized by the payer in this state; or

(ii) if and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(b)

(i) A patent is utilized in a state to the extent that the patent is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state.

(ii) If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(8) All business income shall be apportioned to this state using the same methods, procedures, and requirements of Sections 59-7-311 through 59-7-320.

Amended by Chapter 239, 2020 General Session

59-10-119 Returns by husband and wife if husband or wife is a nonresident.

(1) If the adjusted gross income of a husband and wife who are both nonresidents of this state is reported or determined on separate federal individual income tax returns, the husband's and wife's state taxable incomes in this state shall be separately determined.

(2) If the adjusted gross income of a husband and wife who are both nonresidents of this state is reported or determined on a joint federal individual income tax return, the husband's and wife's tax shall be reported or determined in this state on a joint return.

(3)

(a) If one spouse is a nonresident of this state and the other spouse is a resident of this state, separate taxes shall be determined on each spouse's separate state taxable incomes on forms prescribed by the commission.

(b) Notwithstanding Subsection (3)(a), a husband and wife may elect to be considered to be residents of this state for purposes of determining state taxable income for a taxable year.

(c) If one spouse who is a nonresident of this state and the other spouse who is a resident of this state file a joint federal income tax return, but determine state taxable income separately, the spouses shall compute their taxable incomes in this state as if their adjusted gross incomes had been determined separately.

Amended by Chapter 389, 2008 General Session

59-10-120 Change of status as resident or nonresident.

(1) If an individual changes the individual's status during the taxable year from resident to nonresident or from nonresident to resident, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, require the individual to file one return for the portion of the taxable year during which the individual is a resident and another return for the portion of the taxable year during which the individual is a nonresident.

(2) The taxable income of the individual described in Subsection (1) shall be determined as provided in this chapter for residents and for nonresidents as if the individual's taxable year for federal income tax purposes were limited to the period of the individual's resident and nonresident status respectively.

Amended by Chapter 389, 2008 General Session

59-10-121 Proration when two returns required.

If an individual is required to file two returns for a taxable year under Section 59-10-120:

(1) personal exemptions and the standard deduction as used on the federal individual income tax return shall be prorated between the two returns, under rules prescribed by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to reflect the proportions of the taxable year during which the individual was a resident and a nonresident; and

(2) the total amount of the taxes due on the two returns may not be less than the total amount of the taxes that would be due if the total of the taxable incomes reported on the two returns had been included in one return.

Amended by Chapter 389, 2008 General Session

59-10-122 Taxable year.

(1) For purposes of a tax imposed by this chapter, the taxable year of a resident or nonresident individual or resident or nonresident estate or trust shall be the same as the taxable year of the resident or nonresident individual or resident or nonresident estate or trust for federal income tax purposes.

(2)

(a) If the taxable year of a resident or nonresident individual or resident or nonresident estate or trust is changed for federal income tax purposes, that taxable year for purposes of a tax imposed by this chapter shall be changed in the same manner as the change for federal income tax purposes.

(b) If a change in a taxable year results in a taxable period of less than 12 months for federal income tax purposes, that same taxable period shall be used in computing a tax imposed by this chapter.

Amended by Chapter 389, 2008 General Session

59-10-123 Accounting method.

(1) For purposes of a tax imposed by this chapter, a resident or nonresident individual's or resident or nonresident estate's or trust's method of accounting shall be the same as the method of

accounting the resident or nonresident individual or resident or nonresident estate or trust uses for federal income tax purposes.

(2) If a resident or nonresident individual's or resident or nonresident estate's or trust's method of accounting is changed for federal income tax purposes, the resident or nonresident individual's or resident or nonresident estate's or trust's method of accounting shall be changed in the same manner:
  (a) for purposes of a tax imposed by this chapter; and
  (b) for any taxable year for which the change in the method of accounting is made for federal income tax purposes.

Amended by Chapter 389, 2008 General Session

59-10-124 Adjustments between taxable years after change in accounting method.

(1) In computing a resident or nonresident individual's or resident or nonresident estate's or trust's state taxable income for a taxable year under a method of accounting different from the method under which the resident or nonresident individual's or resident or nonresident estate's or trust's state taxable income was computed for the previous taxable year, state taxable income shall be increased or decreased:
  (a) to prevent double inclusion or exclusion of an item of gross income as a result of the change in the method of accounting; or
  (b) to prevent double allowance or disallowance of a subtraction from or addition to gross income as a result of the change in the method of accounting.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making an increase or decrease required by Subsection (1).

Amended by Chapter 389, 2008 General Session

59-10-125 Adjustment after change of accounting method.

(1) If a taxpayer's method of accounting is changed, other than from an accrual to an installment method, any additional tax that results from adjustments determined to be necessary solely by reason of the change may not be greater than if those adjustments were ratably allocated and included for the taxable year of the change and the preceding taxable years, not in excess of two, during which the taxpayer used the method of accounting from which the change is made.

(2) If a taxpayer's method of accounting is changed from an accrual to an installment method, any additional tax for the taxable year of the change in the method of accounting and for any subsequent taxable year that is attributable to the receipt of installment payments properly accrued in a prior taxable year, shall be reduced by the portion of tax for any prior taxable year attributable to the accrual of such installment payments, under rules prescribed by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 389, 2008 General Session

59-10-126 Business entities not subject to tax -- Exceptions.

(1) A business entity that is taxable as a corporation for federal income tax purposes:
  (a) may not be subject to the tax imposed by this chapter; and
  (b) is subject to Chapter 7, Corporate Franchise and Income Taxes.

(2) A business entity that is exempt from federal income taxation is exempt from the tax imposed by this chapter.

(3) Notwithstanding Subsection (2), if a business entity that is exempt from federal income taxation has income that is subject to federal income taxation, that income is subject to taxation under Chapter 7, Corporate Franchise and Income Taxes.

Amended by Chapter 389, 2008 General Session

59-10-136 Domicile.

(1)

(a) An individual is considered to have domicile in this state if:

(i) except as provided in Subsection (1)(b), a dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return is enrolled in a public kindergarten, public elementary school, or public secondary school in this state;

(ii) the individual or the individual's spouse is a resident student in accordance with Section 53B-8-102 who is enrolled in an institution of higher education described in Section 53B-2-101 in this state; or

(iii) the individual or the individual's spouse, in that taxable year:

(A) votes in this state in a regular general election, municipal general election, primary election, or special election;

(B) has not registered to vote in another state; and

(C) has not voted in another state that does not require voter registration.

(b) The determination of whether an individual is considered to have domicile in this state may not be determined in accordance with Subsection (1)(a)(i) if the individual:

(i) is the noncustodial parent of a dependent:

(A) with respect to whom the individual claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's federal individual income tax return; and

(B) who is enrolled in a public kindergarten, public elementary school, or public secondary school in this state; and

(ii)

(A) is divorced from the custodial parent of the dependent described in Subsection (1)(b)(i); or

(B) was never married to the custodial parent of the dependent described in Subsection (1)(b)(i).

(2)

(a) Subject to Subsection (2)(b), if the requirements of Subsection (1) are not met for an individual to be considered to have domicile in this state, the individual is considered to have domicile in this state if:

(i) the individual or the individual's spouse has a permanent home in this state to which the individual or the individual's spouse intends to return after being absent; and

(ii) the individual or the individual's spouse has voluntarily fixed the individual's or the individual's spouse's habitation in this state, not for a special or temporary purpose, but with the intent of making a permanent home.

(b) The determination of whether an individual is considered to have domicile in this state under this Subsection (2) shall be based on the preponderance of the evidence, taking into consideration the totality of only the following facts and circumstances:

(i) whether the individual or the individual's spouse has a driver license in this state;

(ii) whether the individual or the individual's spouse receives a residential exemption in accordance with Chapter 2, Property Tax Act, for that individual's or individual's spouse's primary residence;
(iii) whether a dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return is a resident student in accordance with Section 53B-8-102 who is enrolled in an institution of higher education described in Section 53B-2-101 in this state;
(iv) the nature and quality of the living accommodations that the individual or the individual's spouse has in this state as compared to another state;
(v) the presence in this state of a spouse or dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return;
(vi) the physical location in which earned income as defined in Section 32(c)(2), Internal Revenue Code, is earned by the individual or the individual's spouse;
(vii) the state of registration of a vehicle as defined in Section 59-12-102 owned or leased by the individual or the individual's spouse;
(viii) whether the individual or the individual's spouse is a member of a church, a club, or another similar organization in this state;
(ix) whether the individual or the individual's spouse lists an address in this state on mail, a telephone listing, a listing in an official government publication, other correspondence, or another similar item;
(x) whether the individual or the individual's spouse lists an address in this state on a state or federal tax return;
(xi) whether the individual or the individual's spouse asserts residency in this state for purposes of filing an individual income tax return under this chapter, including asserting that the individual or the individual's spouse is a part-year resident of this state for the portion of the taxable year for which the individual or the individual's spouse is a resident of this state;
(xii) whether the individual or the individual's spouse asserts residency in this state on a document, other than an individual income tax return filed under this chapter, filed with or provided to a court or other governmental entity;
(xiii) the failure of an individual or the individual's spouse to obtain a permit or license normally required of a resident of the state for which the individual or the individual's spouse asserts to have domicile;
(xiv) whether the individual is an individual described in Subsection (1)(b);
(xv) whether the individual:
(A) maintains a place of abode in this state; and
(B) spends in the aggregate 183 or more days of the taxable year in this state; or
(xvi) whether the individual or the individual's spouse:
(A) did not vote in this state in a regular general election, municipal general election, primary election, or special election during the taxable year, but voted in the state in a general election, municipal general election, primary election, or special election during any of the three taxable years prior to that taxable year; and
(B) has not registered to vote in another state during a taxable year described in Subsection (2)(b)(xvi)(A).
(3) Notwithstanding Subsection (2), for individuals who are spouses for purposes of this section and one of the spouses has domicile under this section, the other spouse is not considered

to have domicile in this state under Subsection (2) if one of the spouses establishes by a preponderance of the evidence that, during the taxable year and for three taxable years prior to that taxable year, that other spouse:
(a) is not an owner of property in this state;
(b) has not spent in the aggregate more than 30 days of the taxable year in this state;
(c) has not received earned income as defined in Section 32(c)(2), Internal Revenue Code, in this state;
(d) has not voted in this state in a regular general election, municipal general election, primary election, or special election; and
(e) does not have a driver license in this state.
(4)
(a) For purposes of this section, an individual is not considered to have a spouse if:
(i) the individual is legally separated or divorced from the spouse; or
(ii) the individual and the individual's spouse claim married filing separately filing status for purposes of filing a federal individual income tax return for the taxable year.
(b) Except as provided in Subsection (4)(a)(ii), for purposes of this section, an individual's filing status on a federal individual income tax return or a return filed under this chapter may not be considered in determining whether the individual has a spouse.
(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and for purposes of Subsections (2)(b)(xv) and (3)(b), the commission may by rule define what constitutes spending a day of the taxable year in this state.

Amended by Chapter 248, 2024 General Session

59-10-137 Review of credits allowed under this chapter.
(1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.
(2)
(a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.
(b) In conducting the review required under Subsection (2)(a), the committee shall:
(i) schedule time on at least one committee agenda to conduct the review;
(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;
(iii)
(A) invite the Governor's Office of Economic Opportunity to present a summary and analysis of the information for each tax credit regarding which the Governor's Office of Economic Opportunity is required to make a report under this chapter; and
(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;
(iv) ensure that the committee's recommendations described in this section include an evaluation of:
(A) the cost of the tax credit to the state;
(B) the purpose and effectiveness of the tax credit; and
(C) the extent to which the state benefits from the tax credit; and
(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(3)
(a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:
(i) Section 59-10-1004;
(ii) Section 59-10-1010;
(iii) Section 59-10-1015;
(iv) Section 59-10-1025;
(v) Section 59-10-1027;
(vi) Section 59-10-1031;
(vii) Section 59-10-1032;
(viii) Section 59-10-1035;
(ix) Section 59-10-1105; and
(x) Section 59-10-1108.
(b) On or before November 30, 2018, and every three years after 2018, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:
(i) Section 59-10-1005;
(ii) Section 59-10-1006;
(iii) Section 59-10-1012;
(iv) Section 59-10-1022;
(v) Section 59-10-1023;
(vi) Section 59-10-1028;
(vii) Section 59-10-1034;
(viii) Section 59-10-1037; and
(ix) Section 59-10-1107.
(c) On or before November 30, 2019, and every three years after 2019, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:
(i) Section 59-10-1007;
(ii) Section 59-10-1014;
(iii) Section 59-10-1017;
(iv) Section 59-10-1018;
(v) Section 59-10-1019;
(vi) Section 59-10-1024;
(vii) Section 59-10-1029;
(viii) Section 59-10-1036;
(ix) Section 59-10-1106; and
(x) Section 59-10-1111.
(d)
(i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2017.
(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.

Amended by Chapter 460, 2023 General Session