

Part 2

Trusts and Estates

59-10-201 Taxation of resident trusts and estates.

- (1) Except as provided in Subsection (2), a tax determined in accordance with the rate prescribed by Subsection 59-10-104(2)(b) is imposed for each taxable year on the state taxable income of each resident estate or trust.
- (2) The following are not subject to a tax imposed by this part:
 - (a) a resident estate or trust that is not required to file a federal income tax return for estates and trusts for the taxable year; or
 - (b) a resident trust taxed as a corporation.
- (3) A resident estate or trust shall be allowed the credit provided in Section 59-10-1003, relating to an income tax imposed by another state, except that the limitation shall be computed by reference to the taxable income of the estate or trust.
- (4) The property of the Utah Educational Savings Plan established in Title 53B, Chapter 8a, Utah Educational Savings Plan, and its income from operations and investments are exempt from all taxation by the state under this chapter.

Amended by Chapter 6, 2010 General Session

59-10-201.1 State taxable income of a resident estate or trust defined.

For a taxable year, the state taxable income of a resident estate or trust means the unadjusted income of the resident estate or trust for that taxable year, as adjusted by Sections 59-10-202, 59-10-209.1, and 59-10-210.

Amended by Chapter 389, 2008 General Session

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

- (1) There shall be added to unadjusted income of a resident or nonresident estate or trust:
 - (a) a lump sum distribution allowable as a deduction under Section 402(d)(3), Internal Revenue Code, to the extent deductible under Section 62(a)(8), Internal Revenue Code, in determining adjusted gross income;
 - (b) except as provided in Subsection (3), 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 issued by one or more of the following entities:
 - (i) a state other than this state;
 - (ii) the District of Columbia;
 - (iii) a political subdivision of a state other than this state; or
 - (iv) an agency or instrumentality of an entity described in Subsections (1)(b)(i) through (iii);
 - (c) any portion of federal taxable income for a taxable year if that federal taxable income is derived from stock:
 - (i) in an S corporation; and
 - (ii) that is held by an electing small business trust;
 - (d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan, from the account of a resident or nonresident estate or trust that 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 estate or trust that is the account owner:

- (i) is not expended for:
 - (A) higher education costs as defined in Section 53B-8a-102; 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 estate or trust:
 - (I) that is the account owner; and
 - (II) on the resident or nonresident estate's or trust'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 estate or trust that is the account owner to claim a tax credit under Section 59-10-1017; and
 - (e) any fiduciary adjustments required by Section 59-10-210.
- (2) There shall be subtracted from unadjusted income of a resident or nonresident estate or trust:
- (a) the interest or a dividend on obligations or securities of the United States and its possessions or of any authority, commission, or instrumentality of the United States, to the extent that interest or dividend is included in gross income for federal income tax purposes for the taxable year but exempt from state income taxes under the laws of the United States, but the amount subtracted under this Subsection (2) shall be reduced by any interest on indebtedness incurred or continued to purchase or carry the obligations or securities described in this Subsection (2), and by any expenses incurred in the production of interest or dividend income described in this Subsection (2) to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income;
 - (b) income of an irrevocable resident trust if:
 - (i) the income would not be treated as state taxable income derived from Utah sources under Section 59-10-204 if received by a nonresident trust;
 - (ii) the trust first became a resident trust on or after January 1, 2004;
 - (iii) no assets of the trust were held, at any time after January 1, 2003, in another resident irrevocable trust created by the same settlor or the spouse of the same settlor;
 - (iv) the trustee of the trust is a trust company as defined in Subsection 7-5-1(1)(d);
 - (v) the amount subtracted under this Subsection (2)(b) is reduced to the extent the settlor or any other person is treated as an owner of any portion of the trust under Subtitle A, Subchapter J, Subpart E of the Internal Revenue Code; and
 - (vi) the amount subtracted under this Subsection (2)(b) is reduced by any interest on indebtedness incurred or continued to purchase or carry the assets generating the income described in this Subsection (2)(b), and by any expenses incurred in the production of income described in this Subsection (2)(b), to the extent that those expenses, including amortizable bond premiums, are deductible in determining federal taxable income;
 - (c) if the conditions of Subsection (4)(a) are met, the amount of income of a resident or nonresident estate or trust derived from a deceased Ute tribal member:
 - (i) during a time period that the Ute tribal member resided on homesteaded land diminished from the Uintah and Ouray Reservation; and
 - (ii) from a source within the Uintah and Ouray Reservation;
 - (d) any amount:
 - (i) received by a resident or nonresident estate or trust;
 - (ii) that constitutes a refund of taxes imposed by:

- (A) a state; or
 - (B) the District of Columbia; and
 - (iii) to the extent that amount is included in total income on that resident or nonresident estate's or trust's federal tax return for estates and trusts for that taxable year;
 - (e) 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 estate or trust derived from a deceased resident or nonresident individual; and
 - (C) for the taxable year; and
 - (ii) to the extent that railroad retirement benefit is included in total income on that resident or nonresident estate's or trust's federal tax return for estates and trusts;
 - (f) an amount:
 - (i) received by a resident or nonresident estate or trust if that amount is derived from a deceased 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;
 - (g) the amount that a qualified nongrantor charitable lead trust deducts under Section 642(c), Internal Revenue Code, as a charitable contribution deduction, as allowed on the qualified nongrantor charitable lead trust's federal income tax return for estates and trusts for the taxable year; and
 - (h) any fiduciary adjustments required by Section 59-10-210.
- (3) Notwithstanding Subsection (1)(b), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(b)(i) through (iv) may not be added to unadjusted income of a resident or nonresident estate or trust if, as annually determined by the commission:
- (a) for an entity described in Subsection (1)(b)(i) or (ii), 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)(b)(iii) or (iv), 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.
- (4)
- (a) A subtraction for an amount described in Subsection (2)(c) is allowed only if:
 - (i) the income is derived from a deceased Ute tribal member; and
 - (ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of this Subsection (4).
 - (b) The agreement described in Subsection (4)(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)(c); 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)(c);
 - (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 (4) is in effect.
 - (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the subtraction permitted under Subsection (2)(c) 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)(c) 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.

Amended by Chapter 6, 2010 General Session

59-10-204 State taxable income of a nonresident estate or trust.

For a taxable year, the state taxable income of a nonresident estate or trust is an amount calculated by:

- (1) determining the unadjusted income of the nonresident estate or trust for that taxable year after making the adjustments required by:
 - (a) Section 59-10-202;
 - (b) Section 59-10-207;
 - (c) Section 59-10-209.1; or
 - (d) Section 59-10-210; and
- (2) calculating the portion of the amount determined under Subsection (1) that is derived from Utah sources determined in accordance with the principles of Section 59-10-117.

Amended by Chapter 389, 2008 General Session

59-10-205 Tax on nonresident estate or trust.

- (1) Except as provided in Subsection (2), a tax is imposed on a nonresident estate or trust in an amount equal to the product of:
 - (a) the nonresident estate's or trust's state taxable income as determined under Section 59-10-204; and
 - (b) the percentage listed in Subsection 59-10-104(2).
- (2) The following are not subject to a tax imposed by this part:
 - (a) a nonresident estate or trust that is not required to file a federal income tax return for estates and trusts for the taxable year; or

- (b) a nonresident trust taxed as a corporation.

Amended by Chapter 389, 2008 General Session

59-10-207 Share of a nonresident estate or trust and beneficiaries in state taxable income.

- (1) The following shall be determined as provided in this section:
 - (a) the share of a nonresident estate or trust or a nonresident beneficiary of a nonresident estate or trust in an item of income, gain, loss, or deduction that constitutes distributable net income; and
 - (b) for purposes of Section 59-10-116, the share of a nonresident beneficiary of any estate or trust in estate or trust income, gain, loss, or deduction.
- (2)
 - (a) The modifications described in Sections 59-10-202 and 59-10-210 shall be added to or subtracted from the amount of an item of income, gain, loss, or deduction that constitutes distributable net income to the extent the item relates to an item of income, gain, loss, or deduction that also constitutes distributable net income.
 - (b) A modification may not be made under this section if the modification duplicates an item already reflected in distributable net income.
- (3)
 - (a) The amount determined under Subsection (2)(a) shall be allocated among the estate or trust and the beneficiaries of the estate or trust, including a resident beneficiary, in proportion to the estate's, trust's, or beneficiary's share of distributable net income.
 - (b) An amount allocated in accordance with Subsection (3)(a) has the same character as for federal income tax purposes.
- (4)
 - (a) If an estate or trust does not have distributable net income for the taxable year, the share of each beneficiary in the amount determined under Subsection (2)(a) shall be in proportion to the beneficiary's share of the estate or trust income for that taxable year, under state law or the terms of the governing instrument, that is required to be distributed currently and any other amounts of that income distributed in that taxable year.
 - (b) For purposes of this Subsection (4), any balance of net income shall be allocated to the estate or trust.
- (5)
 - (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule establish one or more other methods of determining the shares of a beneficiary and of an estate or trust in:
 - (i) income derived from sources in this state; and
 - (ii) modifications related to income, gain, loss, or deduction.
 - (b) A fiduciary may elect to use a method allowed by this Subsection (5) only if the allocation of a share under Subsection (3) or (4):
 - (i) results in an inequity in the allocation; and
 - (ii) the inequity described in Subsection (5)(b)(i) is substantial:
 - (A) in amount; and
 - (B) in relation to the total amount of the modifications described in Subsection (2)(a).

Amended by Chapter 389, 2008 General Session

59-10-209.1 Adjustments to unadjusted income.

- (1) The commission shall allow an adjustment to unadjusted income of a resident or nonresident estate or trust if the resident or nonresident estate or trust would otherwise:
 - (a) receive a double tax benefit under this chapter; or
 - (b) suffer a double tax detriment under this chapter.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to allow for the adjustment to unadjusted income required by Subsection (1).

Amended by Chapter 382, 2008 General Session

Amended by Chapter 389, 2008 General Session

59-10-210 Fiduciary adjustments.

- (1) A share of the fiduciary adjustments described in Subsection (2) shall be added to or subtracted from unadjusted income:
 - (a) of:
 - (i) a resident or nonresident estate or trust; or
 - (ii) a resident or nonresident beneficiary of a resident or nonresident estate or trust; and
 - (b) as provided in this section.
- (2) For purposes of Subsection (1), the fiduciary adjustments are the following amounts:
 - (a) the additions to and subtractions from unadjusted income of a resident or nonresident estate or trust required by Section 59-10-202; and
 - (b) a tax credit claimed by a resident or nonresident estate or trust as allowed by:
 - (i) Section 59-6-102;
 - (ii) Part 10, Nonrefundable Tax Credit Act;
 - (iii) Part 11, Refundable Tax Credit Act;
 - (iv) Section 59-13-202;
 - (v) Section 63N-2-213; or
 - (vi) Section 63N-2-305.
- (3)
 - (a) The respective shares of an estate or trust and its beneficiaries, including for the purpose of this allocation a nonresident beneficiary, in the state fiduciary adjustments, shall be allocated in proportion to their respective shares of federal distributable net income of the estate or trust.
 - (b) If the estate or trust described in Subsection (3)(a) has no federal distributable net income for the taxable year, the share of each beneficiary in the fiduciary adjustments shall be allocated in proportion to that beneficiary's share of the estate or trust income for the taxable year that is, under state law or the governing instrument, required to be distributed currently plus any other amounts of that income distributed in that taxable year.
 - (c) After making the allocations required by Subsections (3)(a) and (b), any balance of the fiduciary adjustments shall be allocated to the estate or trust.
- (4)
 - (a) The commission shall allow a fiduciary to use a method for determining the allocation of the fiduciary adjustments described in Subsection (2) other than the method described in Subsection (3) if using the method described in Subsection (3) results in an inequity:
 - (i) in allocating the fiduciary adjustments described in Subsection (2); and
 - (ii) if the inequity is substantial:
 - (A) in amount; and
 - (B) in relation to the total amount of the fiduciary adjustments described in Subsection (2).

- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules authorizing a fiduciary to use a method for determining the allocation of the fiduciary adjustments described in Subsection (2) other than the method described in Subsection (3) if using the method described in Subsection (3) results in an inequity:
 - (i) in allocating the fiduciary adjustments described in Subsection (2); and
 - (ii) if the inequity is substantial:
 - (A) in amount; and
 - (B) in relation to the total amount of the fiduciary adjustments described in Subsection (2).

Amended by Chapter 283, 2015 General Session