

***Superseded 5/5/2021***

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

(1) As used in this section:

- (a) "Eligible age 65 or older retiree" means a claimant, regardless of whether that claimant is retired, who:
  - (i) is 65 years of age or older; and
  - (ii) was born on or before December 31, 1952.
- (b)
  - (i) "Eligible retirement income" means income received by an eligible under age 65 retiree as a pension or annuity if that pension or annuity is:
    - (A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible under age 65 retiree; and
    - (B)
      - (I) paid from an annuity contract purchased by an employer under a plan that meets the requirements of Section 404(a)(2), Internal Revenue Code;
      - (II) purchased by an employee under a plan that meets the requirements of Section 408, Internal Revenue Code; or
      - (III) paid by:
        - (Aa) the United States;
        - (Bb) a state or a political subdivision of a state; or
        - (Cc) the District of Columbia.
  - (ii) "Eligible retirement income" does not include amounts received by the spouse of a living eligible under age 65 retiree because of the eligible under age 65 retiree's having been employed in a community property state.
- (c) "Eligible under age 65 retiree" means a claimant, regardless of whether that claimant is retired, who:
  - (i) is younger than 65 years of age;
  - (ii) was born on or before December 31, 1952; and
  - (iii) has eligible retirement income for the taxable year for which a tax credit is claimed under this section.
- (d) "Head of household filing status" is as defined in Section 59-10-1018.
- (e) "Joint filing status" is as defined in Section 59-10-1018.
- (f) "Married filing separately status" means a married individual who:
  - (i) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and
  - (ii) files a single federal individual income tax return for the taxable year.
- (g) "Modified adjusted gross income" means the sum of an eligible age 65 or older retiree's or eligible under age 65 retiree's:
  - (i) adjusted gross income for the taxable year for which a tax credit is claimed under this section;
  - (ii) any interest income that is not included in adjusted gross income for the taxable year described in Subsection (1)(g)(i); and
  - (iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)(g)(i).
- (h) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.

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

- (a) each eligible age 65 or older retiree may claim a nonrefundable tax credit of \$450 against taxes otherwise due under this part; or
- (b) each eligible under age 65 retiree may claim a nonrefundable tax credit against taxes otherwise due under this part in an amount equal to the lesser of:
  - (i) \$288; or
  - (ii) the product of:
    - (A) the eligible under age 65 retiree's eligible retirement income for the taxable year for which the eligible under age 65 retiree claims a tax credit under this section; and
    - (B) 6%.
- (3) A tax credit under this section may not be carried forward or carried back.
- (4) The sum of the tax credits allowed by Subsection (2) claimed on one return filed under this part shall be reduced by \$.025 for each dollar by which modified adjusted gross income for purposes of the return exceeds:
  - (a) for a federal individual income tax return that is allowed a married filing separately status, \$16,000;
  - (b) for a federal individual income tax return that is allowed a single filing status, \$25,000;
  - (c) for a federal individual income tax return that is allowed a head of household filing status, \$32,000; or
  - (d) for a return under this chapter that is allowed a joint filing status, \$32,000.
- (5) For purposes of determining the ownership of items of retirement income under this section, common law doctrine shall be applied in all cases even though some items of retirement income may have originated from service or investments in a community property state.