

INCOME TAX AMENDMENTS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Howard C. Nielson

AN ACT RELATING TO THE INDIVIDUAL INCOME TAX ACT; REPEALING OBSOLETE LANGUAGE; CHANGING THE BASIS FOR CALCULATING INDIVIDUAL INCOME TAXES FROM FEDERAL TAXABLE INCOME TO FEDERAL ADJUSTED GROSS INCOME; REPEALING THE ADDITION TO ADJUSTED GROSS INCOME OF STATE INCOME TAX DEDUCTED AS AN ITEMIZED DEDUCTION; REPEALING THE ADDITION TO ADJUSTED GROSS INCOME OF 25% OF THE PERSONAL EXEMPTIONS; MODIFYING THE RETIREMENT INCOME EXEMPTION TO ALLOW EACH TAXPAYER AGE 65 OR OVER BEFORE THE CLOSE OF THE TAXABLE YEAR TO QUALIFY FOR A PORTION OF THE EXEMPTION REGARDLESS OF INCOME; MODIFYING THE DEDUCTION FOR DISABLED DEPENDENTS; MODIFYING THE PROVISIONS PHASING OUT THE RETIREMENT INCOME EXEMPTION; MAKING TECHNICAL CHANGES; AND PROVIDING AN EFFECTIVE DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

59-10-104, as last amended by Chapter 333, Laws of Utah 1996

59-10-112, as last amended by Chapter 345, Laws of Utah 1995

59-10-114, as last amended by Chapter 56, Laws of Utah 1997

59-10-116, as renumbered and amended by Chapter 2, Laws of Utah 1987

59-10-117, as last amended by Chapters 311 and 345, Laws of Utah 1995

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

Section 1. Section **59-10-104** is amended to read:

59-10-104. Tax basis -- Rates.

~~[(1) For taxable years beginning on or after January 1, 1996, but beginning before January~~

1 1, 1997, a tax is imposed on the state taxable income, as defined in Section 59-10-112, of every
2 resident individual as follows:]

3 [(a) For an individual, other than a husband and wife or head of household required to use
4 the tax table under Subsection (1)(b), the tax under this section is imposed in accordance with the
5 following table:]

6 [If the state taxable income is: _____	The tax is:]
7 [Less than or equal to \$750 _____	2.55% of the state taxable income]
8 [Greater than \$750 but less than or equal _____	\$19, plus 3.5% of state taxable income]
9 [to \$1,500 _____	greater than \$750]
10 [Greater than \$1,500 but less than or equal _____	\$45, plus 4.4% of state taxable income]
11 [to \$2,250 _____	greater than \$1,500]
12 [Greater than \$2,250 but less than or equal _____	\$78, plus 5.35% of state taxable income]
13 [to \$3,000 _____	greater than \$2,250]
14 [Greater than \$3,000 but less than or equal _____	\$119, plus 6% of state taxable income]
15 [to \$3,750 _____	greater than \$3,000]
16 [Greater than \$3,750 _____	\$164, plus 7% of state taxable income]
17 _____	[greater than \$3,750]

18 [(b) For a husband and wife filing a single return jointly, or a head of household as defined
19 in Section 2(b), Internal Revenue Code, filing a single return, the tax under this section is imposed
20 in accordance with the following table:]

21 [If the state taxable income is: _____	The tax is:]
22 [Less than or equal to \$1,500 _____	2.55% of the state taxable income]
23 [Greater than \$1,500 but less than or equal _____	\$38, plus 3.5% of state taxable income]
24 [to \$3,000 _____	greater than \$1,500]
25 [Greater than \$3,000 but less than or equal _____	\$91, plus 4.4% of state taxable income]
26 [to \$4,500 _____	greater than \$3,000]
27 [Greater than \$4,500 but less than or equal _____	\$157, plus 5.35% of state taxable income]
28 [to \$6,000 _____	greater than \$4,500]
29 [Greater than \$6,000 but less than or equal _____	\$237, plus 6% of state taxable income]
30 [to \$7,500 _____	greater than \$6,000]
31 [Greater than \$7,500 _____	\$327, plus 7% of state taxable income]

[greater than \$7,500]

[(2)] For taxable years beginning on or after January 1, 1997, a tax is imposed on the state taxable income, as defined in Section 59-10-112, of every resident individual as follows:

[(a)] (1) For an individual, other than a husband and wife or head of household required to use the tax table under Subsection (2)[(b)], the tax under this section is imposed in accordance with the following table:

If the state taxable income is:	The tax is:
Less than or equal to \$750	2.3% of the state taxable income
Greater than \$750 but less than or equal to \$1,500	\$17, plus 3.3% of state taxable income greater than \$750
Greater than \$1,500 but less than or equal to \$2,250	\$42, plus 4.2% of state taxable income greater than \$1,500
Greater than \$2,250 but less than or equal to \$3,000	\$74, plus 5.2% of state taxable income greater than \$2,250
Greater than \$3,000 but less than or equal to \$3,750	\$113, plus 6% of state taxable income greater than \$3,000
Greater than \$3,750	\$158, plus 7% of state taxable income greater than \$3,750

[(b)] (2) For a husband and wife filing a single return jointly, or a head of household as defined in Section 2(b), Internal Revenue Code, filing a single return, the tax under this section is imposed in accordance with the following table:

If the state taxable income is:	The tax is:
Less than or equal to \$1,500	2.3% of the state taxable income
Greater than \$1,500 but less than or equal to \$3,000	\$35, plus 3.3% of state taxable income greater than \$1,500
Greater than \$3,000 but less than or equal to \$4,500	\$84, plus 4.2% of state taxable income greater than \$3,000
Greater than \$4,500 but less than or equal to \$6,000	\$147, plus 5.2% of state taxable income greater than \$4,500
Greater than \$6,000 but less than or equal to \$7,500	\$225, plus 6% of state taxable income greater than \$6,000

1 Greater than \$7,500 \$315, plus 7% of state taxable income
2 greater than \$7,500

3 Section 2. Section 59-10-112 is amended to read:

4 **59-10-112. State taxable income of resident individual.**

5 (1) "State taxable income" in the case of a resident individual means [his] the individual's
6 federal [taxable] adjusted gross income [(f)as defined [by] in Section [59-10-111)] 62, Internal
7 Revenue Code, with the modifications, subtractions, and adjustments provided in Section
8 59-10-114.

9 (2) The state taxable income of a resident individual who is the beneficiary of an estate
10 or trust shall be modified by the adjustments provided in Section 59-10-209.

11 Section 3. Section 59-10-114 is amended to read:

12 **59-10-114. Additions to and subtractions from federal adjusted gross income of an**
13 **individual.**

14 (1) There shall be added to the federal [taxable] adjusted gross income of a resident or
15 nonresident individual:

16 [~~(a) the amount of any income tax imposed by this or any predecessor Utah individual~~
17 ~~income tax law and the amount of any income tax imposed by the laws of another state, the~~
18 ~~District of Columbia, or a possession of the United States, to the extent deducted from federal~~
19 ~~adjusted gross income, as defined by Section 62, Internal Revenue Code, in determining federal~~
20 ~~taxable income;]~~

21 [(b)] (a) a lump sum distribution allowable as a deduction under Section 402(e)(3), Internal
22 Revenue Code, to the extent deductible under Section 62(a)(8), Internal Revenue Code, in
23 determining federal adjusted gross income;

24 [(c) 25% of the personal exemptions, as defined and calculated in the Internal Revenue
25 Code;]

26 [(d)] (b) a withdrawal from a medical care savings account and any penalty imposed in the
27 taxable year if:

28 (i) the taxpayer did not deduct or include the amounts on his federal tax return pursuant
29 to Section 220, Internal Revenue Code; and

30 (ii) the withdrawal is subject to Subsections 31A-32-105(1) and (2); and

31 [(e)] (c) the amount refunded to a participant under Title 53B, Chapter 8a, Higher

1 Education Savings Incentive Program, in the year in which the amount is refunded.

2 (2) There shall be subtracted from federal [taxable] adjusted gross income of a resident or
3 nonresident individual:

4 (a) the interest or dividends on obligations or securities of the United States and its
5 possessions or of any authority, commission, or instrumentality of the United States, to the extent
6 includable in gross income for federal income tax purposes but exempt from state income taxes
7 under the laws of the United States, but the amount subtracted under this subsection shall be
8 reduced by any interest on indebtedness incurred or continued to purchase or carry the obligations
9 or securities described in this subsection, and by any expenses incurred in the production of
10 interest or dividend income described in this subsection to the extent that such expenses, including
11 amortizable bond premiums, are deductible in determining federal taxable income;

12 (b) 1/2 of the net amount of any income tax paid or payable to the United States after all
13 allowable credits, as reported on the United States individual income tax return of the taxpayer for
14 the same taxable year;

15 (c) the amount of adoption expenses which, for purposes of this subsection, means any
16 actual medical and hospital expenses of the mother of the adopted child which are incident to the
17 child's birth and any welfare agency, child placement service, legal, and other fees or costs relating
18 to the adoption;

19 (d) amounts received by taxpayers under age 65 as retirement income which, for purposes
20 of this section, means pensions and annuities, paid from an annuity contract purchased by an
21 employer under a plan which meets the requirements of Section 404 (a)(2), Internal Revenue Code,
22 or purchased by an employee under a plan which meets the requirements of Section 408, Internal
23 Revenue Code, or paid by the United States, a state, or political subdivision thereof, or the District
24 of Columbia, to the employee involved or the surviving spouse;

25 (e) subject to the reductions provided in Subsection (3)(b), for each taxpayer age 65 or
26 over before the close of the taxable year, a \$7,500 personal retirement exemption;

27 (f) [~~75%~~] 100% of the amount of the personal exemption, as [~~defined and~~] calculated in
28 [~~the~~] Section 151, Internal Revenue Code, for each dependent child with a disability and adult with
29 a disability who is claimed as a dependent on a taxpayer's return;

30 (g) any amount included in federal taxable income that was received pursuant to any
31 federal law enacted in 1988 to provide reparation payments, as damages for human suffering, to

1 United States citizens and resident aliens of Japanese ancestry who were interned during World
2 War II;

3 (h) subject to the limitations of Subsection (3)(e), 60% of the amounts paid by the taxpayer
4 during the taxable year for health care insurance, as defined in Title 31A, Chapter 1, Insurance
5 Code, for the taxpayer, the taxpayer's spouse, and the taxpayer's dependents to the extent the
6 amounts paid for health insurance were not deductible under Sections 125, 162, or 213, Internal
7 Revenue Code, in determining federal taxable income;

8 (i) except as otherwise provided in this subsection, the amount of a contribution made in
9 the tax year on behalf of the taxpayer to a medical care savings account and interest earned on a
10 contribution to a medical care savings account established pursuant to Title 31A, Chapter 32,
11 Medical Care Savings Account Act, to the extent the contribution is accepted by the account
12 administrator as provided in the Medical Care Savings Account Act, and if the taxpayer did not
13 deduct or include amounts on his federal tax return pursuant to Section 220, Internal Revenue
14 Code. A contribution deductible under this subsection may not exceed either of the following:

15 (i) the maximum contribution allowed under the Medical Care Savings Account Act for
16 the tax year multiplied by two for taxpayers who file a joint return, if neither spouse is covered by
17 health care insurance as defined in Section 31A-1-301 or self-funded plan that covers the other
18 spouse, and each spouse has a medical care savings account; or

19 (ii) the maximum contribution allowed under the Medical Care Savings Account Act for
20 the tax year for taxpayers:

21 (A) who do not file a joint return; or

22 (B) who file a joint return, but do not qualify under Subsection (2)(i)(i); [and]

23 (j) the amount included in federal taxable income that was derived from money paid by
24 the taxpayer to the program fund and investment income earned on those payments under Title
25 53B, Chapter 8a, Higher Education Savings Incentive Program[-];

26 (k) 100% of the amount of the taxpayer's federal personal exemptions; and

27 (l) (i) the amount of the federal standard deduction claimed by the taxpayer on the
28 taxpayer's federal individual income tax return for the taxable year; or

29 (ii) the amount of the federal itemized deductions claimed by the taxpayer on the
30 taxpayer's federal individual income tax return for the taxable year.

31 (3) (a) For purposes of Subsection (2)(d), the amount of retirement income subtracted for

1 taxpayers under 65 shall be the lesser of the amount included in federal taxable income, or \$4,800,
2 except that:

3 (i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income earned
4 over \$32,000, the amount of the retirement income exemption that may be subtracted shall be
5 reduced by 50 cents;

6 (ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income
7 earned over \$16,000, the amount of the retirement income exemption that may be subtracted shall
8 be reduced by 50 cents; and

9 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over \$25,000,
10 the amount of the retirement income exemption that may be subtracted shall be reduced by 50
11 cents.

12 (b) For purposes of Subsection (2)(e), the amount of the personal retirement exemption
13 shall be [further] reduced according to the following schedule:

14 (i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income earned
15 over \$32,000, the amount of the personal retirement exemption shall be reduced by 50 cents,
16 except that the amount of the personal retirement exemption may not be reduced below 100% of
17 the amount of the personal exemption calculated under Section 151, Internal Revenue Code;

18 (ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income
19 earned over \$16,000, the amount of the personal retirement exemption shall be reduced by 50
20 cents, except that the amount of the personal retirement exemption may not be reduced below
21 100% of the amount of the personal exemption calculated under Section 151, Internal Revenue
22 Code; and

23 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over \$25,000,
24 the amount of the personal retirement exemption shall be reduced by 50 cents, except that the
25 amount of the personal retirement exemption may not be reduced below 100% of the amount of
26 the personal exemption calculated under Section 151, Internal Revenue Code.

27 (c) For purposes of Subsections (3)(a) and (b), adjusted gross income shall be calculated
28 by adding to federal adjusted gross income any interest income not otherwise included in federal
29 adjusted gross income.

30 (d) (i) For purposes of determining ownership of items of retirement income common law
31 doctrine will be applied in all cases even though some items may have originated from service or

1 investments in a community property state.

2 (ii) Amounts received by the spouse of a living retiree because of the retiree's having been
3 employed in a community property state are not deductible as retirement income of such spouse.

4 (e) For purposes of Subsection (2)(h), a subtraction for an amount paid for health care
5 insurance as defined in Title 31A, Chapter 1, Insurance Code, is not allowed:

6 (i) for an amount that is reimbursed or funded in whole or in part by the federal
7 government, the state, or an agency or instrumentality of the federal government or the state; and

8 (ii) for a taxpayer who is eligible to participate in a health plan maintained and funded in
9 whole or in part by the taxpayer's employer or the taxpayer's spouse's employer.

10 Section 4. Section **59-10-116** is amended to read:

11 **59-10-116. Tax on nonresident individual's state taxable income.**

12 A tax is [hereby] imposed on the state taxable income, as defined in [~~Sections 59-10-111~~
13 and] Section 59-10-112, of every nonresident individual in accordance with the schedules in
14 Section 59-10-104, [but] except that the individual's Utah tax shall be only the portion of the
15 resident tax [~~so calculated as~~] that the individual's federal adjusted gross income received from
16 Utah sources [~~(determined under Section 59-10-117)] for the taxable year bears to the
17 individual's total federal adjusted gross income for the same taxable year.~~

18 Section 5. Section **59-10-117** is amended to read:

19 **59-10-117. Federal adjusted gross income derived from Utah sources.**

20 (1) For the purpose of Section 59-10-116, federal adjusted gross income derived from Utah
21 sources [~~shall include~~] includes those items includable in federal [~~adjusted gross income~~] as
22 defined [by] in Section 62 [~~of the~~], Internal Revenue Code[~~)]~~, attributable to or resulting from:

23 (a) the ownership in this state of any interest in real or tangible personal property
24 (including real property or property rights from which "gross income from mining" as defined by
25 Section 613(c) of the Internal Revenue Code is derived); or

26 (b) the carrying on of a business, trade, profession, or occupation in this state.

27 (2) For the purposes of Subsection (1):

28 (a) Income from intangible personal property, including annuities, dividends, interest, and
29 gains from the disposition of intangible personal property shall constitute income derived from
30 Utah sources only to the extent that such income is from property employed in a trade, business,
31 profession, or occupation carried on in this state.

1 (b) Deductions with respect to capital losses, net long-term capital gains, and net operating
2 losses shall be based solely on income, gain, loss, and deduction connected with Utah sources,
3 under rules prescribed by the commission, but otherwise shall be determined in the same manner
4 as the corresponding federal deductions.

5 (c) Salaries, wages, commissions, and compensation for personal services rendered outside
6 this state shall not be considered to be derived from Utah sources.

7 (d) A nonresident shareholder's distributive share of ordinary income, gain, loss, and
8 deduction derived from or connected with Utah sources shall be determined under Section
9 59-10-118.

10 (e) A nonresident, other than a dealer holding property primarily for sale to customers in
11 the ordinary course of his trade or business, shall not be considered to carry on a trade, business,
12 profession, or occupation in this state solely by reason of the purchase or sale of property for his
13 own account.

14 (f) If a trade, business, profession, or occupation is carried on partly within and partly
15 without this state, items of income, gain, loss, and deductions derived from or connected with Utah
16 sources shall be determined in accordance with the provisions of Section 59-10-118.

17 (g) A nonresident partner's distributive share of partnership income, gain, loss, and
18 deduction derived from or connected with Utah sources shall be determined under Section
19 59-10-303.

20 (h) The share of a nonresident estate or trust and nonresident beneficiaries of any estate
21 or trust in income, gain, loss, and deduction derived from or connected with Utah sources shall be
22 determined under Section 59-10-207.

23 (i) Any dividend, interest, or distributive share of income, gain, or loss from a real estate
24 investment trust, as defined in Section 59-7-116.5, distributed or allocated to a nonresident
25 investor in the trust, including any shareholder, beneficiary, or owner of a beneficial interest in the
26 trust, shall be income from intangible personal property under Subsection (2)(a), and shall
27 constitute income derived from Utah sources only to the extent the nonresident investor is
28 employing its beneficial interest in the trust in a trade, business, profession, or occupation carried
29 on by the investor in this state.

30 **Section 6. Effective date.**

31 This act takes effect on January 1, 1999.

Legislative Review Note
as of 12-10-97 9:53 AM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel