

1                                   **STATE INCOME TAX - ELIMINATION OF**  
2                                   **MARRIAGE TAX PENALTIES**

3                                   1999 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Sponsor: Wayne A. Harper**

6 AN ACT RELATING TO THE INDIVIDUAL INCOME TAX ACT; MODIFYING THE  
7 ADJUSTED GROSS INCOME AMOUNTS AT WHICH THE RETIREMENT INCOME  
8 DEDUCTION AND THE PERSONAL RETIREMENT EXEMPTION ARE REDUCED;  
9 CLARIFYING THE AMOUNTS THAT MAY BE DEDUCTED UNDER THE RETIREMENT  
10 INCOME DEDUCTION; MAKING TECHNICAL CHANGES; AND PROVIDING AN  
11 EFFECTIVE DATE.

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

13 AMENDS:

14                   **59-10-114**, as last amended by Chapter 56, Laws of Utah 1997

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

16                   Section 1. Section **59-10-114** is amended to read:

17                   **59-10-114. Additions to and subtractions from federal taxable income of an**  
18 **individual.**

19                   (1) There shall be added to federal taxable income of a resident or nonresident individual:

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

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

28 (c) 25% of the personal exemptions, as defined and calculated in the Internal Revenue  
29 Code;

30 (d) a withdrawal from a medical care savings account and any penalty imposed in the  
31 taxable year if:

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

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

35 (e) the amount refunded to a participant under Title 53B, Chapter 8a, Higher Education  
36 Savings Incentive Program, in the year in which the amount is refunded.

37 (2) There shall be subtracted from federal taxable income of a resident or nonresident  
38 individual:

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

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

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

54 (d) subject to the provisions of Subsection (3), for a taxpayer who is under 65 on the last  
55 day of the taxpayer's taxable year, or for the taxpayer's surviving spouse who is under 65 on the  
56 last day of the surviving spouse's taxable year, amounts received [by taxpayers under age 65] as  
57 retirement income [which, for purposes of this section, means pensions and annuities, paid from  
58 an annuity contract purchased by an employer under a plan which meets the requirements of

59 ~~Section 404 (a)(2), Internal Revenue Code, or purchased by an employee under a plan which meets~~  
60 ~~the requirements of Section 408, Internal Revenue Code, or paid by the United States, a state, or~~  
61 ~~political subdivision thereof, or the District of Columbia, to the employee involved or the~~  
62 ~~surviving spouse] as defined in Subsection (3);~~

63 (e) subject to the provisions of Subsection (3), for each taxpayer who is age 65 or over on  
64 or before the [close] last day of the taxpayer's taxable year, a \$7,500 personal retirement  
65 exemption;

66 (f) 75% of the amount of the personal exemption, as defined and calculated in the Internal  
67 Revenue Code, for each dependent child with a disability and adult with a disability who is  
68 claimed as a dependent on a taxpayer's return;

69 (g) any amount included in federal taxable income that was received pursuant to any  
70 federal law enacted in 1988 to provide reparation payments, as damages for human suffering, to  
71 United States citizens and resident aliens of Japanese ancestry who were interned during World  
72 War II;

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

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

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

89 (ii) the maximum contribution allowed under the Medical Care Savings Account Act for

90 the tax year for taxpayers:

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

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

93 (j) the amount included in federal taxable income that was derived from money paid by

94 the taxpayer to the program fund and investment income earned on those payments under Title

95 53B, Chapter 8a, Higher Education Savings Incentive Program.

96 (3) (a) For purposes of Subsection (2)(d) and this Subsection (3)(a).

97 (i) "Governmental entity" means:

98 (A) the United States;

99 (B) a state;

100 (C) a political subdivision of a state; or

101 (D) the District of Columbia.

102 (ii) "Retirement income" means amounts paid to a taxpayer or the taxpayer's surviving  
103 spouse:

104 (A) from an annuity contract purchased by an employer under a plan that meets the  
105 requirements of Section 404(a)(2), Internal Revenue Code;

106 (B) from a pension plan, an annuity plan, or both:

107 (I) purchased by an employee; and

108 (II) paid from an individual retirement account that meets the requirements of Section 408,  
109 Internal Revenue Code;

110 (C) from a pension plan, an annuity plan, or both, established and maintained by a  
111 governmental entity for employees of the governmental entity; or

112 (D) under a combination of the contracts or plans described in Subsections (3)(a)(ii)(A)  
113 through (C).

114 (b) Subject to the limitations provided in Subsection (3)(c), for purposes of Subsection  
115 (2)(d), the amount of retirement income subtracted for [taxpayers] a taxpayer who is under age 65  
116 on the last day of the taxpayer's taxable year or for the taxpayer's surviving spouse who is under  
117 age 65 on the last day of the surviving spouse's taxable year shall be the lesser of:

118 (i) the amount of retirement income included [in federal taxable income;] as income on  
119 the taxpayer's or the taxpayer's surviving spouse's federal individual income tax return for the  
120 taxable year; or

121 (ii) \$4,800[~~except that~~].

122 (c) (i) For married taxpayers filing joint returns, for each \$1 of adjusted gross income  
 123 earned over [~~\$32,000~~] ~~h~~ [~~\$40,000~~] \$50,000 ~~h~~ , the amount of the retirement income exemption that  
 123a may be  
 124 subtracted shall be reduced by 50 cents[;].

125 (ii) For married taxpayers filing separate returns, for each \$1 of adjusted gross income  
 126 earned over [~~\$16,000~~] ~~h~~ [~~\$20,000~~] \$25,000 ~~h~~ , the amount of the retirement income exemption that  
 126a may be  
 127 subtracted shall be reduced by 50 cents[~~;~~and].

128 (iii) For individual taxpayers, for each \$1 of adjusted gross income earned over  
 128a ~~h~~ [~~+~~] \$25,000 [~~+~~]  
 129 [~~\$20,000~~] ~~h~~ , the amount of the retirement income exemption that may be subtracted shall be  
 129a reduced  
 130 by 50 cents.

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

133 (i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income earned  
 134 over [~~\$32,000~~] ~~h~~ [~~\$40,000~~] \$50,000 ~~h~~ , the amount of the personal retirement exemption shall be  
 134a reduced by 50  
 135 cents;

136 (ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income  
 137 earned over [~~\$16,000~~] ~~h~~ [~~\$20,000~~] \$25,000 ~~h~~ , the amount of the personal retirement exemption shall  
 137a be reduced  
 138 by 50 cents; and

139 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over  
 139a ~~h~~ [~~+~~] \$25,000 [~~+~~]  
 140 [~~\$20,000~~] ~~h~~ , the amount of the personal retirement exemption shall be reduced by 50 cents.

141 [~~(c)~~] (e) For purposes of Subsections (3)[~~(a)~~](c) and [~~(b)~~] (d), adjusted gross income shall  
 142 be calculated by adding to federal adjusted gross income any interest income not otherwise  
 143 included in federal adjusted gross income.

144 [~~(d)~~] (f) For purposes of determining ownership of items of retirement income common  
 145 law doctrine will be applied in all cases even though some items may have originated from service  
 146 or investments in a community property state. Amounts received by the spouse of a living retiree  
 147 because of the retiree's having been employed in a community property state are not deductible as

148 retirement income of such spouse.

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

151           (i) for an amount that is reimbursed or funded in whole or in part by the federal

152 government, the state, or an agency or instrumentality of the federal government or the state; and  
153 (ii) for a taxpayer who is eligible to participate in a health plan maintained and funded in  
154 whole or in part by the taxpayer's employer or the taxpayer's spouse's employer.

155 Section 2. **Effective date.**

156 This act takes effect on January 1, 2000.

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**Legislative Review Note**  
**as of 11-19-98 12:15 PM**

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

**Office of Legislative Research and General Counsel**

**Committee Note**

The Revenue and Taxation Interim Committee recommended this bill.