

**INDIVIDUAL INCOME TAX - ADDITION OF
INTEREST TO FEDERAL TAXABLE INCOME**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Greg J. Curtis

This act modifies the Revenue and Tax Code to provide that interest on certain indebtedness of other states is subject to individual state income taxation. This act makes technical changes.

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

AMENDS:

59-10-114, as last amended by Chapter 257, Laws of Utah 2000

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

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

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

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

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

(b) 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 federal adjusted gross income;

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

(d) a withdrawal from a medical care savings account and any penalty imposed in the



28 taxable year if:

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

31 (ii) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); [~~and~~]

32 (e) the amount refunded to a participant under Title 53B, Chapter 8a, Higher Education
33 Savings Incentive Program, in the year in which the amount is refunded[~~;~~]; and

34 (f) for taxable years beginning on or after January 1, 2002. ~~h~~ **FOR BONDS, NOTES, AND**

34a **OTHER EVIDENCES OF INDEBTEDNESS ACQUIRED ON OR AFTER JANUARY 1, 2002, THE** ~~h~~ interest

34b from bonds, notes and

35 other evidences of indebtedness issued ~~h~~ [on or after January 1, 2002] ~~h~~ by:

36 (i) a state other than this state;

37 (ii) the District of Columbia;

38 (iii) a possession of the United States;

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

40 (v) an agency or instrumentality of an entity described in Subsections (1)(f)(i) through (iv).

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

43 (a) the interest or dividends on obligations or securities of the United States [~~and its~~
44 ~~possessions~~] or of any authority, commission, or instrumentality of the United States, to the extent
45 includable in gross income for federal income tax purposes but exempt from state income taxes
46 under the laws of the United States, but the amount subtracted under this Subsection (2)(a) shall
47 be reduced by any interest on indebtedness incurred or continued to purchase or carry the
48 obligations or securities described in this Subsection (2)(a), and by any expenses incurred in the
49 production of interest or dividend income described in this Subsection (2)(a) to the extent that such
50 expenses, including amortizable bond premiums, are deductible in determining federal taxable
51 income;

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

55 (c) the amount of adoption expenses which, for purposes of this Subsection (2)(c), means
56 any actual medical and hospital expenses of the mother of the adopted child which are incident to
57 the child's birth and any welfare agency, child placement service, legal, and other fees or costs
58 relating to the adoption;

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

65 (e) for each taxpayer age 65 or over before the close of the taxable year, a \$7,500 personal
66 retirement exemption;

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

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

74 (h) subject to the limitations of Subsection (3)(e), amounts a taxpayer pays during the
75 taxable year for health care insurance, as defined in Title 31A, Chapter 1, General Provisions:

76 (i) for:

77 (A) the taxpayer;

78 (B) the taxpayer's spouse; and

79 (C) the taxpayer's dependents; and

80 (ii) to the extent the taxpayer does not deduct the amounts under Section 125, 162, or 213,
81 Internal Revenue Code, in determining federal taxable income for the taxable year;

82 (i) (i) except as otherwise provided in this Subsection (2)(i), the amount of a contribution
83 made ~~[in]~~ during the ~~[tax]~~ taxable year on behalf of the taxpayer to a medical care savings account
84 and interest earned on a contribution to a medical care savings account established pursuant to
85 Title 31A, Chapter 32a, Medical Care Savings Account Act, to the extent the contribution is
86 accepted by the account administrator as provided in the Medical Care Savings Account Act, and
87 if the taxpayer did not deduct or include amounts on ~~[his]~~ the taxpayer's federal individual income
88 tax return pursuant to Section 220, Internal Revenue Code~~[-A]~~; and

89 (ii) a contribution deductible under this subsection may not exceed either of the following:

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

94 ~~[(i)]~~ (B) the maximum contribution allowed under the Medical Care Savings Account Act
95 for the tax year for taxpayers:

96 ~~[(A)]~~ (I) who do not file a joint return; or

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

98 (j) the amount included in federal taxable income that was derived from money paid by
99 the taxpayer to the program fund under Title 53B, Chapter 8a, Higher Education Savings Incentive
100 Program, not to exceed amounts determined under Subsection 53B-8a-106(1)(d) and investment
101 income earned on participation agreements under Subsection 53B-8a-106(1) when used for higher
102 education costs of the beneficiary;

103 (k) for ~~[tax]~~ taxable years beginning on or after January 1, 2000, any amounts paid for
104 premiums ~~[on]~~ for long-term care insurance ~~[policies]~~ as defined in Section 31A-22-1402 to the
105 extent the amounts paid for long-term care insurance were not deducted under Section 213,
106 Internal Revenue Code, in determining federal taxable income; and

107 (l) for taxable years beginning on or after January 1, 2000, if the conditions of Subsection
108 (4)(a) are met, the amount of income derived by a Ute tribal member:

109 (i) during a time period that the Ute tribal member resides on homesteaded land
110 diminished from the Uintah and Ouray Reservation; and

111 (ii) from a source within the Uintah and Ouray Reservation.

112 (3) (a) For purposes of Subsection (2)(d), the amount of retirement income subtracted for
113 taxpayers under 65 shall be the lesser of the amount included in federal taxable income, or \$4,800,
114 except that:

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

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

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

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

126 (i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income earned
127 over \$32,000, the amount of the personal retirement exemption shall be reduced by 50 cents;

128 (ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income
129 earned over \$16,000, the amount of the personal retirement exemption shall be reduced by 50
130 cents; and

131 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over \$25,000,
132 the amount of the personal retirement exemption shall be reduced by 50 cents.

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

136 (d) For purposes of determining ownership of items of retirement income common law
137 doctrine will be applied in all cases even though some items may have originated from service or
138 investments in a community property state. Amounts received by the spouse of a living retiree
139 because of the retiree's having been employed in a community property state are not deductible as
140 retirement income of such spouse.

141 (e) For purposes of Subsection (2)(h), a subtraction for an amount paid for health care
142 insurance as defined in Title 31A, Chapter 1, General Provisions, is not allowed:

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

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

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

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

149 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the
150 requirements of this Subsection (4).

151 (b) The agreement described in Subsection (4)(a):

- 152 (i) may not:
- 153 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
- 154 (B) provide a subtraction under this section greater than or different from the subtraction
- 155 described in Subsection (2)(1); or
- 156 (C) affect the power of the state to establish rates of taxation; and
- 157 (ii) shall:
- 158 (A) provide for the implementation of the subtraction described in Subsection (2)(1);
- 159 (B) be in writing;
- 160 (C) be signed by:
- 161 (I) the governor; and
- 162 (II) the chair of the Business Committee of the Ute tribe;
- 163 (D) be conditioned on obtaining any approval required by federal law; and
- 164 (E) state the effective date of the agreement.
- 165 (c) (i) The governor shall report to the commission by no later than February 1 of each year
- 166 regarding whether or not an agreement meeting the requirements of this Subsection (4) is in effect.
- 167 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the
- 168 subtraction permitted under Subsection (2)(1) is not allowed for taxable years beginning on or after
- 169 the January 1 following the termination of the agreement.
- 170 (d) For purposes of Subsection (2)(1) and in accordance with Title 63, Chapter 46a, Utah
- 171 Administrative Rulemaking Act, the commission may make rules:
- 172 (i) for determining whether income is derived from a source within the Uintah and Ouray
- 173 Reservation; and
- 174 (ii) that are substantially similar to how federal adjusted gross income derived from Utah
- 175 sources is determined under Section 59-10-117.

Legislative Review Note
as of 2-1-01 10:51 AM

For purposes of the individual income tax, this legislation taxes interest from certain state and local bonds, notes, or other debts ("interest on debts") that are issued out of state while not taxing interest on debts issued in Utah. This differential taxation of interest on debts might be challenged as discriminatory under the Commerce Clause of the Constitution of the United States ("Commerce Clause"). Legal arguments exist in favor of and against the constitutionality of this legislation. However, a limited legal review of this issue has found that a distinct majority of states tax interest on debts in a manner similar to this legislation, and that at least one court, the Ohio Court of Appeals, has upheld a similar tax which was challenged under the Commerce Clause.

Office of Legislative Research and General Counsel