

**INDIVIDUAL INCOME TAX - ELIMINATING
MARRIAGE TAX PENALTIES**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Wayne A. Harper

This act amends the Individual Income Tax Act to modify the adjusted gross income amounts at which the subtraction from federal taxable income for retirement income and the personal retirement exemption are reduced. The act clarifies the subtraction from federal taxable income for retirement income and the personal retirement exemption, and makes technical changes. This act takes effect for taxable years beginning on or after January 1, 2002.

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;



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-32a-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 (2)(a) shall
43 be reduced by any interest on indebtedness incurred or continued to purchase or carry the
44 obligations or securities described in this Subsection (2)(a), and by any expenses incurred in the
45 production of interest or dividend income described in this Subsection (2)(a) to the extent that such
46 expenses, including amortizable bond premiums, are deductible in determining federal taxable
47 income;

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

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

55 (d) subject to Subsection (3), for an individual who is under 65 years old on the last day
56 of the individual's taxable year, or for the individual's surviving spouse who is under 65 years old
57 on the last day of the surviving spouse's taxable year, amounts received [~~by taxpayers under age~~
58 ~~65]~~ as retirement income [~~which, for purposes of this section, means pensions and annuities, paid~~

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

64 (e) subject to Subsection (3), for each [taxpayer age] individual 65 years old or [over] older
65 before the [close] last day of the the individual's taxable year, a \$7,500 personal retirement
66 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)](h), 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 (2)(i) may not exceed either of the

90 following:

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

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

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

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

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

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

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

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

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

113 (3) (a) For purposes of Subsection (2)(d)~~[-]~~ and this Subsection (3):

114 (i) "governmental entity" means:

115 (A) the United States;

116 (B) a state;

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

118 (D) the District of Columbia; and

119 (ii) "retirement income" means amounts paid to an individual or an individual's surviving
120 spouse:

121 (A) from an annuity contract purchased by an employer under a plan that meets the
 122 requirements of Section 404(a)(2), Internal Revenue Code;
 123 (B) from a pension plan, an annuity plan, or both:
 124 (I) purchased by an employee; and
 125 (II) paid from an individual retirement account that meets the requirements of Section 408,
 126 Internal Revenue Code;
 127 (C) from a pension plan, an annuity plan, or both, established and maintained by a
 128 governmental entity for employees of the governmental entity; or
 129 (D) under a combination of the contracts or plans described in Subsections (3)(a)(ii)(A)
 130 through (C).
 131 (b) Subject to Subsection (3)(c), for purposes of Subsection (2)(d), the amount of
 132 retirement income subtracted for [taxpayers] an individual who is under 65 [shall be] years old on
 133 the last day of the individual's taxable year or for the individual's surviving spouse who is under
 134 65 years old on the last day of the surviving spouse's taxable year is equal to the lesser of:
 135 (i) the amount of retirement income included [in federal taxable] as income[;] on the
 136 individual's or the individual's surviving spouse's federal individual income tax return for the
 137 taxable year; or
 138 (ii) \$4,800[; except that:].
 139 (c) The amount of retirement income subtracted under Subsection (2)(d) shall be reduced
 140 as follows:
 141 (i) for married [taxpayers] individuals filing joint returns, for each \$1 of adjusted gross
 142 income earned [over \$32,000] that exceeds \$50,000, the amount [of the retirement income
 143 exemption] that may be subtracted under Subsection (3)(b) shall be reduced by 50 cents;
 144 (ii) for married [taxpayers] individuals filing separate returns, for each \$1 of adjusted gross
 145 income earned [over \$16,000] that exceeds \$25,000, the amount [of the retirement income
 146 exemption] that may be subtracted under Subsection (3)(b) shall be reduced by 50 cents; and
 147 (iii) for [individual taxpayers] single individuals, for each \$1 of adjusted gross income
 148 earned [over \$25,000] that exceeds \$25,000, the amount [of the retirement income exemption] that
 149 may be subtracted under Subsection (3)(b) shall be reduced by 50 cents.
 150 [~~(b) For purposes of Subsection (2)(e), the~~
 151 (d) The amount of the personal retirement exemption subtracted under Subsection (2)(e)

152 shall be ~~[further]~~ reduced ~~[according to the following schedule]~~ as follows:

153 (i) for married ~~[taxpayers]~~ individuals filing joint returns, for each \$1 of adjusted gross
154 income earned ~~[over \$32,000]~~ that exceeds \$50,000, the amount of the personal retirement
155 exemption that may be subtracted under Subsection (2)(e) shall be reduced by 50 cents;

156 (ii) for married ~~[taxpayers]~~ individuals filing separate returns, for each \$1 of adjusted gross
157 income earned ~~[over \$16,000]~~ that exceeds \$25,000, the amount of the personal retirement
158 exemption that may be subtracted under Subsection (2)(e) shall be reduced by 50 cents; and

159 (iii) for ~~[individual taxpayers]~~ single individuals, for each \$1 of adjusted gross income
160 earned ~~[over \$25,000]~~ that exceeds \$25,000, the amount of the personal retirement exemption that
161 may be subtracted under Subsection (2)(e) shall be reduced by 50 cents.

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

165 ~~[(d)]~~ (f) For purposes of determining ownership of items of retirement income common
166 law doctrine will be applied in all cases even though some items may have originated from service
167 or investments in a community property state.

168 (g) Amounts received by the spouse of a living retiree because of the retiree's having been
169 employed in a community property state are not deductible as retirement income of ~~[such]~~ the
170 spouse.

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

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

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

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

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

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

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

182 (i) may not:

183 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

184 (B) provide a subtraction under this section greater than or different from the subtraction
185 described in Subsection (2)(l); or

186 (C) affect the power of the state to establish rates of taxation; and

187 (ii) shall:

188 (A) provide for the implementation of the subtraction described in Subsection (2)(l);

189 (B) be in writing;

190 (C) be signed by:

191 (I) the governor; and

192 (II) the chair of the Business Committee of the Ute tribe;

193 (D) be conditioned on obtaining any approval required by federal law; and

194 (E) state the effective date of the agreement.

195 (c) (i) The governor shall report to the commission by no later than February 1 of each year
196 regarding whether or not an agreement meeting the requirements of this Subsection (4) is in effect.

197 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the
198 subtraction permitted under Subsection (2)(l) is not allowed for taxable years beginning on or after
199 the January 1 following the termination of the agreement.

200 (d) For purposes of Subsection (2)(l) and in accordance with Title 63, Chapter 46a, Utah
201 Administrative Rulemaking Act, the commission may make rules:

202 (i) for determining whether income is derived from a source within the Uintah and Ouray
203 Reservation; and

204 (ii) that are substantially similar to how federal adjusted gross income derived from Utah
205 sources is determined under Section 59-10-117.

206 Section 2. **Effective date.**

207 This act takes effect for taxable years beginning on or after January 1, 2002.

Legislative Review Note
as of 1-30-01 10:20 AM

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

Office of Legislative Research and General Counsel