

**INDIVIDUAL INCOME TAX -- 2001  
FEDERAL RATE BRACKET BENEFIT**

2001 FIRST SPECIAL SESSION  
STATE OF UTAH

**Sponsor: Matt Throckmorton**

Wayne A. Harper

**This act modifies the Individual Income Tax Act by providing that a federal individual income tax credit or advance refund amount allowed as a result of the 2001 federal rate bracket benefit is not subject to state individual income taxation, and making technical changes. This act has retrospective operation for taxable years beginning on or after January 1, 2001.**

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

AMENDS:

**59-10-114**, as last amended by Chapters 116 and 233, Laws of Utah 2001

*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 that the taxpayer does not include in adjusted gross income on the taxpayer's federal individual income tax return for the taxable year;

(c) for taxable years beginning on or after January 1, 2002, the amount of a child's income



28 calculated under Subsection (5) that:

29 (i) a parent elects to report on the parent's federal individual income tax return for the  
30 taxable year; and

31 (ii) the parent does not include in adjusted gross income on the parent's federal individual  
32 income tax return for the taxable year;

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

35 (e) a withdrawal from a medical care savings account and any penalty imposed in the  
36 taxable year if:

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

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

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

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

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

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

56 (ii) notwithstanding Subsection (2)(b)(i), for taxable years beginning on or after January  
57 1, 2001, the amount of a credit or an advance refund amount reported on a resident or nonresident  
58 individual's United States individual income tax return allowed as a result of the acceleration of

59 the income tax rate bracket benefit for 2001 in accordance with Section 101, Economic Growth  
60 and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, may not be used in calculating the  
61 amount described in Subsection (2)(b)(i):

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

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

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

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

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

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

83 (i) for:

84 (A) the taxpayer;

85 (B) the taxpayer's spouse; and

86 (C) the taxpayer's dependents; and

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

89 (i) (i) except as otherwise provided in this Subsection (2)(i), the amount of a contribution

90 made ~~[in]~~ during the ~~[tax]~~ taxable year on behalf of the taxpayer to a medical care savings account  
91 and interest earned on a contribution to a medical care savings account established pursuant to  
92 Title 31A, Chapter 32a, Medical Care Savings Account Act, to the extent the contribution is  
93 accepted by the account administrator as provided in the Medical Care Savings Account Act, and  
94 if the taxpayer did not deduct or include amounts on ~~[his]~~ the taxpayer's federal individual income  
95 tax return pursuant to Section 220, Internal Revenue Code~~[-A]~~; and

96 (ii) contribution deductible under this Subsection (2)(i) may not exceed either of the  
97 following:

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

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

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

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

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

111 (k) for ~~[tax]~~ taxable years beginning on or after January 1, 2000, any amounts paid for  
112 premiums for long-term care insurance as defined in Section 31A-1-301 to the extent the amounts  
113 paid for long-term care insurance were not deducted under Section 213, Internal Revenue Code,  
114 in determining federal taxable income; and

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

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

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

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

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

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

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

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

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

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

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

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

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

144 (d) For purposes of determining ownership of items of retirement income common law  
145 doctrine will be applied in all cases even though some items may have originated from service or  
146 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) For purposes of Subsection (2)(h), a subtraction for an amount paid for health care  
150 insurance as defined in Title 31A, Chapter 1, General Provisions, 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 (4) (a) A subtraction for an amount described in Subsection (2)(1) is allowed only if:

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

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

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

160 (i) may not:

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

162 (B) provide a subtraction under this section greater than or different from the subtraction  
163 described in Subsection (2)(1); or

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

165 (ii) shall:

166 (A) provide for the implementation of the subtraction described in Subsection (2)(1);

167 (B) be in writing;

168 (C) be signed by:

169 (I) the governor; and

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

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

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

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

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

178 (d) For purposes of Subsection (2)(1) and in accordance with Title 63, Chapter 46a, Utah  
179 Administrative Rulemaking Act, the commission may make rules:

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

182 (ii) that are substantially similar to how federal adjusted gross income derived from Utah

183 sources is determined under Section 59-10-117.

184 (5) (a) For purposes of this Subsection (5), "Form 8814" means:

185 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's  
186 Interest and Dividends; or

187 (ii) (A) for taxable years beginning on or after January 1, 2002, a form designated by the  
188 commission in accordance with Subsection (5)(a)(ii)(B) as being substantially similar to 2000  
189 Form 8814 if for purposes of federal individual income taxes the information contained on 2000  
190 Form 8814 is reported on a form other than Form 8814; and

191 (B) for purposes of Subsection (5)(a)(ii)(A) and in accordance with Title 63, Chapter 46a,  
192 Utah Administrative Rulemaking Act, the commission may make rules designating a form as being  
193 substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the  
194 information contained on 2000 Form 8814 is reported on a form other than Form 8814.

195 (b) The amount of a child's income added to adjusted gross income under Subsection (1)(c)  
196 is equal to the difference between:

197 (i) the lesser of:

198 (A) the base amount specified on Form 8814; and

199 (B) the sum of the following reported on Form 8814:

200 (I) the child's taxable interest;

201 (II) the child's ordinary dividends; and

202 (III) the child's capital gain distributions; and

203 (ii) the amount not taxed that is specified on Form 8814.

204 Section 2. **Retrospective operation.**

205 This act has retrospective operation for taxable years beginning on or after January 1, 2001.

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## Legislative Review Note

as of 6-19-01 3:01 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.