

1 **INCOME TAX CREDIT FOR MILITARY**

2 **RETIRED PAY**

3 2009 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Steven R. Mascaro**

6 **Senate Sponsor: D. Chris Buttars**

7
8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Nonrefundable Tax Credit Act to enact a tax credit.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ enacts a nonrefundable tax credit for military retired pay;
- 15 ▶ provides that the tax credit is subject to apportionment for a nonresident or part-year
16 resident individual or a nonresident estate or trust; and
- 17 ▶ makes technical changes.

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 This bill has retrospective operation for a taxable year beginning on or after January 1,
22 2009.

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **59-10-1002.2**, as renumbered and amended by Laws of Utah 2008, Chapter 389

26 ENACTS:

27 **59-10-1025**, Utah Code Annotated 1953



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

Section 1. Section **59-10-1002.2** is amended to read:

59-10-1002.2. Apportionment of tax credits.

(1) A nonresident individual or a part-year resident individual that claims a tax credit in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1021, 59-10-1022, 59-10-1023, ~~or~~ 59-10-1024, or 59-10-1025 may only claim an apportioned amount of the tax credit equal to:

(a) for a nonresident individual, the product of:

(i) the state income tax percentage for the nonresident individual; and

(ii) the amount of the tax credit that the nonresident individual would have been allowed to claim but for the apportionment requirements of this section; or

(b) for a part-year resident individual, the product of:

(i) the state income tax percentage for the part-year resident individual; and

(ii) the amount of the tax credit that the part-year resident individual would have been allowed to claim but for the apportionment requirements of this section.

(2) A nonresident estate or trust that claims a tax credit in accordance with Section 59-10-1017, 59-10-1020, 59-10-1022, ~~or~~ 59-10-1024, or 59-10-1025 may only claim an apportioned amount of the tax credit equal to the product of:

(a) the state income tax percentage for the nonresident estate or trust; and

(b) the amount of the tax credit that the nonresident estate or trust would have been allowed to claim but for the apportionment requirements of this section.

Section 2. Section **59-10-1025** is enacted to read:

59-10-1025. Nonrefundable tax credit for military retired pay.

(1) As used in this section:

(a) "Active component of the United States Armed Forces" means active duty service in the:

(i) United States Army;

(ii) United States Navy;

(iii) United States Air Force;

(iv) United States Marine Corps; or

59 (v) United States Coast Guard.
60 (b) "Military retired pay" means retired pay a claimant, estate, or trust receives for
61 military service of:
62 (i) a resident or nonresident individual; or
63 (ii) a deceased resident or nonresident individual.
64 (c) "Military service" means service in:
65 (i) an active component of the United States Armed Forces; or
66 (ii) a reserve component of the United States Armed Forces.
67 (d) "Reserve component of the United States Armed Forces" means service in a reserve
68 component of the armed forces listed in 10 U.S.C. Sec. 10101.
69 (2) Except as provided in Section 59-10-1002.2 and subject to Subsections (3) through
70 (6), a claimant, estate, or trust, may claim a nonrefundable tax credit equal to the product of:
71 (a) the income the claimant, estate, or trust receives during the taxable year:
72 (i) in an amount that does not exceed \$10,000;
73 (ii) as military retired pay; and
74 (iii) to the extent that income is included in adjusted gross income on that claimant's,
75 estate's, or trust's federal income tax return for that taxable year; and
76 (b) 5%.
77 (3) A claimant may not claim a tax credit under this section for any amount of adjusted
78 gross income for which the claimant claims a tax credit under Section 59-10-1019.
79 (4) The maximum amount of a tax credit a claimant may claim on a return for a taxable
80 year, regardless of filing status, is the amount determined under Subsection (1).
81 (5) A claimant, estate, or trust may not carry forward or carry back a tax credit under
82 this section.
83 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
84 commission may make rules defining what constitutes retired pay.
85 Section 3. **Retrospective operation.**
86 This bill has retrospective operation for a taxable year beginning on or after January 1,
87 2009.

Legislative Review Note
as of 9-30-08 11:18 AM

Office of Legislative Research and General Counsel

H.B. 76 - Income Tax Credit for Military Retired Pay

Fiscal Note

2009 General Session
State of Utah

State Impact

Enactment of this bill could reduce the Education Fund by \$7,000,000 in FY 2010 and by \$7,250,000 in FY 2011.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
Education Fund	\$0	\$0	\$0	\$0	(\$7,000,000)	(\$7,250,000)
Total	\$0	\$0	\$0	\$0	(\$7,000,000)	(\$7,250,000)

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses, or local governments. Individuals who have eligible military retirement income will receive a potential credit of up to \$500.