

MILITARY RETIREMENT INCOME TAX EXEMPTION

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lee B. Perry

Senate Sponsor: _____

LONG TITLE

Committee Note:

The Veterans' and Military Affairs Commission recommended this bill.

Membership: 5 legislators 18 non-legislators

Legislative Vote: 3 voting for 0 voting against 2 absent

General Description:

This bill exempts retirement pay for service in the armed forces.

Highlighted Provisions:

This bill:

- ▶ exempts all retirement payments related to service within the armed forces.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-10-114, as last amended by Laws of Utah 2010, Chapter 6

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 adjusted gross income of an



28 **individual.**

29 (1) There shall be added to adjusted gross income of a resident or nonresident
30 individual:

31 (a) a lump sum distribution that the taxpayer does not include in adjusted gross income
32 on the taxpayer's federal individual income tax return for the taxable year;

33 (b) the amount of a child's income calculated under Subsection (4) that:

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

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

38 (c) (i) a withdrawal from a medical care savings account and any penalty imposed for
39 the taxable year if:

40 (A) the resident or nonresident individual does not deduct the amounts on the resident
41 or nonresident individual's federal individual income tax return under Section 220, Internal
42 Revenue Code;

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

44 (C) the withdrawal is:

45 (I) subtracted on a return the resident or nonresident individual files under this chapter
46 for a taxable year beginning on or before December 31, 2007; or

47 (II) used as the basis for a resident or nonresident individual to claim a tax credit under
48 Section 59-10-1021;

49 (ii) a disbursement required to be added to adjusted gross income in accordance with
50 Subsection 31A-32a-105(3); or

51 (iii) an amount required to be added to adjusted gross income in accordance with
52 Subsection 31A-32a-105(5)(c);

53 (d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan,
54 from the account of a resident or nonresident individual who is an account owner as defined in
55 Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount
56 withdrawn from the account of the resident or nonresident individual who is the account
57 owner:

58 (i) is not expended for:

- 59 (A) higher education costs as defined in Section 53B-8a-102; or
- 60 (B) a payment or distribution that qualifies as an exception to the additional tax for
61 distributions not used for educational expenses provided in Sections 529(c) and 530(d),
62 Internal Revenue Code; and
- 63 (ii) is:
- 64 (A) subtracted by the resident or nonresident individual:
- 65 (I) who is the account owner; and
- 66 (II) on the resident or nonresident individual's return filed under this chapter for a
67 taxable year beginning on or before December 31, 2007; or
- 68 (B) used as the basis for the resident or nonresident individual who is the account
69 owner to claim a tax credit under Section 59-10-1017;
- 70 (e) except as provided in Subsection (5), for bonds, notes, and other evidences of
71 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other
72 evidences of indebtedness issued by one or more of the following entities:
- 73 (i) a state other than this state;
- 74 (ii) the District of Columbia;
- 75 (iii) a political subdivision of a state other than this state; or
- 76 (iv) an agency or instrumentality of an entity described in Subsections (1)(e)(i) through
77 (iii);
- 78 (f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a
79 resident trust of income that was taxed at the trust level for federal tax purposes, but was
80 subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);
- 81 (g) any distribution received by a resident beneficiary of a nonresident trust of
82 undistributed distributable net income realized by the trust on or after January 1, 2004, if that
83 undistributed distributable net income was taxed at the trust level for federal tax purposes, but
84 was not taxed at the trust level by any state, with undistributed distributable net income
85 considered to be distributed from the most recently accumulated undistributed distributable net
86 income; and
- 87 (h) any adoption expense:
- 88 (i) for which a resident or nonresident individual receives reimbursement from another
89 person; and

90 (ii) to the extent to which the resident or nonresident individual subtracts that adoption
91 expense:

92 (A) on a return filed under this chapter for a taxable year beginning on or before
93 December 31, 2007; or

94 (B) from federal taxable income on a federal individual income tax return.

95 (2) There shall be subtracted from adjusted gross income of a resident or nonresident
96 individual:

97 (a) the difference between:

98 (i) the interest or a dividend on an obligation or security of the United States or an
99 authority, commission, instrumentality, or possession of the United States, to the extent that
100 interest or dividend is:

101 (A) included in adjusted gross income for federal income tax purposes for the taxable
102 year; and

103 (B) exempt from state income taxes under the laws of the United States; and

104 (ii) any interest on indebtedness incurred or continued to purchase or carry the
105 obligation or security described in Subsection (2)(a)(i);

106 (b) for taxable years beginning on or after January 1, 2000, if the conditions of
107 Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:

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

110 (ii) from a source within the Uintah and Ouray Reservation;

111 (c) an amount received by a resident or nonresident individual or distribution received
112 by a resident or nonresident beneficiary of a resident trust:

113 (i) if that amount or distribution constitutes a refund of taxes imposed by:

114 (A) a state; or

115 (B) the District of Columbia; and

116 (ii) to the extent that amount or distribution is included in adjusted gross income for
117 that taxable year on the federal individual income tax return of the resident or nonresident
118 individual or resident or nonresident beneficiary of a resident trust;

119 (d) the amount of a railroad retirement benefit:

120 (i) paid:

- 121 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et
122 seq.;
- 123 (B) to a resident or nonresident individual; and
124 (C) for the taxable year; and
125 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on
126 that resident or nonresident individual's federal individual income tax return for that taxable
127 year; ~~and~~
- 128 (e) an amount:
129 (i) received by an enrolled member of an American Indian tribe; and
130 (ii) to the extent that the state is not authorized or permitted to impose a tax under this
131 part on that amount in accordance with:
132 (A) federal law;
133 (B) a treaty; or
134 (C) a final decision issued by a court of competent jurisdiction[-]; and
135 (f) all retirement payments received from the United States that relate to service in the
136 armed forces.
- 137 (3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:
138 (i) the taxpayer is a Ute tribal member; and
139 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the
140 requirements of this Subsection (3).
141 (b) The agreement described in Subsection (3)(a):
142 (i) may not:
143 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
144 (B) provide a subtraction under this section greater than or different from the
145 subtraction described in Subsection (2)(b); or
146 (C) affect the power of the state to establish rates of taxation; and
147 (ii) shall:
148 (A) provide for the implementation of the subtraction described in Subsection (2)(b);
149 (B) be in writing;
150 (C) be signed by:
151 (I) the governor; and

- 152 (II) the chair of the Business Committee of the Ute tribe;
- 153 (D) be conditioned on obtaining any approval required by federal law; and
- 154 (E) state the effective date of the agreement.

155 (c) (i) The governor shall report to the commission by no later than February 1 of each
156 year regarding whether or not an agreement meeting the requirements of this Subsection (3) is
157 in effect.

158 (ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the
159 subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or
160 after the January 1 following the termination of the agreement.

161 (d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3,
162 Utah Administrative Rulemaking Act, the commission may make rules:

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

165 (ii) that are substantially similar to how adjusted gross income derived from Utah
166 sources is determined under Section [59-10-117](#).

167 (4) (a) For purposes of this Subsection (4), "Form 8814" means:

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

170 (ii) (A) a form designated by the commission in accordance with Subsection
171 (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal
172 individual income taxes the information contained on 2000 Form 8814 is reported on a form
173 other than Form 8814; and

174 (B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter
175 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as
176 being substantially similar to 2000 Form 8814 if for purposes of federal individual income
177 taxes the information contained on 2000 Form 8814 is reported on a form other than Form
178 8814.

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

181 (i) the lesser of:

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

- 183 (B) the sum of the following reported on Form 8814:
- 184 (I) the child's taxable interest;
- 185 (II) the child's ordinary dividends; and
- 186 (III) the child's capital gain distributions; and
- 187 (ii) the amount not taxed that is specified on Form 8814.
- 188 (5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences
- 189 of indebtedness issued by an entity described in Subsections (1)(e)(i) through (iv) may not be
- 190 added to adjusted gross income of a resident or nonresident individual if, as annually
- 191 determined by the commission:
- 192 (a) for an entity described in Subsection (1)(e)(i) or (ii), the entity and all of the
- 193 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on
- 194 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or
- 195 (b) for an entity described in Subsection (1)(e)(iii) or (iv), the following do not impose
- 196 a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of
- 197 this state:
- 198 (i) the entity; or
- 199 (ii) (A) the state in which the entity is located; or
- 200 (B) the District of Columbia, if the entity is located within the District of Columbia.

Legislative Review Note
Office of Legislative Research and General Counsel