

PASS-THROUGH ENTITY TAX AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends individual income tax provisions related to pass-through entities.

Highlighted Provisions:

This bill:

- ▶ addresses state taxable income for pass-through entities; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-10-117, as last amended by Laws of Utah 2011, Chapter 53

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

Section 1. Section **59-10-117** is amended to read:

59-10-117. State taxable income derived from Utah sources.

(1) For purposes of Section **59-10-116**, state taxable income derived from Utah sources includes [~~those items includable in~~] state taxable income attributable to or resulting from:

- (a) the ownership in this state of any interest in real or tangible personal property, including real property or property rights from which gross income from mining as [~~defined~~] described by Section 613(c), Internal Revenue Code, is derived;

- 30 (b) the carrying on of a business, trade, profession, or occupation in this state;
- 31 (c) an addition to adjusted gross income required by Subsection 59-10-114(1)(c), (d),
- 32 or (h) to the extent that the addition was previously subtracted from state taxable income;
- 33 (d) a subtraction from adjusted gross income required by Subsection 59-10-114(2)(c)
- 34 for a refund described in Subsection 59-10-114(2)(c) to the extent that the refund subtracted is
- 35 related to a tax imposed by this state; or
- 36 (e) an adjustment to adjusted gross income required by Section 59-10-115 to the extent
- 37 the adjustment is related to an item described in Subsections (1)(a) through (d).
- 38 (2) For ~~[the]~~ purposes of Subsection (1):
- 39 (a) income from intangible personal property, including annuities, dividends, interest,
- 40 and gains from the disposition of intangible personal property, shall constitute income derived
- 41 from Utah sources only to the extent that the income is from property employed in a trade,
- 42 business, profession, or occupation carried on in this state;
- 43 (b) a deduction with respect to a capital loss, net long-term capital gain, or net
- 44 operating loss shall be:
- 45 (i) based solely on income, gain, loss, and deduction connected with Utah sources,
- 46 under rules prescribed by the commission in accordance with Title 63G, Chapter 3, Utah
- 47 Administrative Rulemaking Act~~[-but];~~ and
- 48 (ii) otherwise ~~[shall be]~~ determined in the same manner as the corresponding federal
- 49 deductions;
- 50 (c) a salary, wage, commission, or compensation for personal services rendered outside
- 51 this state may not be considered to be derived from Utah sources;
- 52 (d) a ~~[nonresident shareholder's distributive]~~ share of ~~[ordinary]~~ income, gain, loss,
- 53 ~~[and] deduction, or credit of a nonresident pass-through entity taxpayer, as defined in Section~~
- 54 59-10-1402, derived from or connected with Utah sources shall be determined ~~[under]~~ in
- 55 accordance with Section 59-10-118;
- 56 (e) a nonresident, other than a dealer holding property primarily for sale to customers
- 57 in the ordinary course of the dealer's trade or business, may not be considered to carry on a

58 trade, business, profession, or occupation in this state solely by reason of the purchase or sale
59 of property for the nonresident's own account;

60 (f) if a trade, business, profession, or occupation is carried on partly within and partly
61 without this state, an item of income, gain, loss, or a deduction derived from or connected with
62 Utah sources shall be determined in accordance with Section 59-10-118;

63 ~~[(g) a nonresident partner's distributive share of partnership income, gain, loss,
64 deduction, or credit derived from or connected with Utah sources shall be determined under
65 Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act;]~~

66 ~~[(h)]~~ (g) the share of a nonresident estate or trust or a nonresident beneficiary of any
67 estate or trust in income, gain, loss, or deduction derived from or connected with Utah sources
68 shall be determined under Section 59-10-207; and

69 ~~[(i)]~~ (h) any dividend, interest, or distributive share of income, gain, or loss from a real
70 estate investment trust, as defined in Section 59-7-101, distributed or allocated to a nonresident
71 investor in the trust, including any shareholder, beneficiary, or owner of a beneficial interest in
72 the trust, shall:

73 (i) be income from intangible personal property under Subsection (2)(a)~~];~~ and ~~shall~~

74 (ii) constitute income derived from Utah sources only to the extent the nonresident
75 investor is employing its beneficial interest in the trust in a trade, business, profession, or
76 occupation carried on by the investor in this state.

77 Section 2. **Retrospective operation.**

78 This bill has retrospective operation for a taxable year beginning on or after January 1,
79 2017.