

**Representative John R. Westwood** proposes the following substitute bill:

**SOCIAL SECURITY TAX CREDIT**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John R. Westwood**

Senate Sponsor: Don L. Ipson

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**LONG TITLE**

**General Description:**

This bill provides for an individual income tax credit for certain social security benefits.

**Highlighted Provisions:**

This bill:

- ▶ defines social security benefit;
- ▶ provides that a claimant may claim a tax credit for certain social security benefits that are included in the claimant's federal adjusted gross income;
- ▶ provides that a claimant may claim either the retirement tax credit or the tax credit enacted by this bill; and
- ▶ provides for rulemaking authority.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**59-10-1002.2**, as last amended by Laws of Utah 2016, Chapter 263

**59-10-1019**, as renumbered and amended by Laws of Utah 2008, Chapter 389



26 ENACTS:

27 **59-10-1038**, Utah Code Annotated 1953

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

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

31 **59-10-1002.2. Apportionment of tax credits.**

32 (1) A nonresident individual or a part-year resident individual that claims a tax credit  
33 in accordance with Section **59-10-1017**, **59-10-1018**, **59-10-1019**, **59-10-1022**, **59-10-1023**,  
34 **59-10-1024**, [or] **59-10-1028**, or **59-10-1038** may only claim an apportioned amount of the tax  
35 credit equal to:

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

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

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

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

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

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

44 (2) A nonresident estate or trust that claims a tax credit in accordance with Section  
45 **59-10-1017**, **59-10-1020**, **59-10-1022**, **59-10-1024**, or **59-10-1028** may only claim an

46 apportioned amount of the tax credit equal to the product of:

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

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

50 Section 2. Section **59-10-1019** is amended to read:

51 **59-10-1019. Definitions -- Nonrefundable retirement tax credits.**

52 (1) As used in this section:

53 (a) "Eligible age 65 or older retiree" means a claimant, regardless of whether that  
54 claimant is retired, who:

55 (i) is 65 years of age or older; and

56 (ii) was born on or before December 31, 1952.

57 (b) (i) "Eligible retirement income" means income received by an eligible under age 65  
58 retiree as a pension or annuity if that pension or annuity is:

59 (A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible under  
60 age 65 retiree; and

61 (B) (I) paid from an annuity contract purchased by an employer under a plan that meets  
62 the requirements of Section 404(a)(2), Internal Revenue Code;

63 (II) purchased by an employee under a plan that meets the requirements of Section 408,  
64 Internal Revenue Code; or

65 (III) paid by:

66 (Aa) the United States;

67 (Bb) a state or a political subdivision of a state; or

68 (Cc) the District of Columbia.

69 (ii) "Eligible retirement income" does not include amounts received by the spouse of a  
70 living eligible under age 65 retiree because of the eligible under age 65 retiree's having been  
71 employed in a community property state.

72 (c) "Eligible under age 65 retiree" means a claimant, regardless of whether that  
73 claimant is retired, who:

74 (i) is younger than 65 years of age;

75 (ii) was born on or before December 31, 1952; and

76 (iii) has eligible retirement income for the taxable year for which a tax credit is claimed  
77 under this section.

78 (d) "Head of household filing status" is as defined in Section [59-10-1018](#).

79 (e) "Joint filing status" is as defined in Section [59-10-1018](#).

80 (f) "Married filing separately status" means a married individual who:

81 (i) does not file a single federal individual income tax return jointly with that married  
82 individual's spouse for the taxable year; and

83 (ii) files a single federal individual income tax return for the taxable year.

84 (g) "Modified adjusted gross income" means the sum of an eligible age 65 or older  
85 retiree's or eligible under age 65 retiree's:

86 (i) adjusted gross income for the taxable year for which a tax credit is claimed under  
87 this section;

88 (ii) any interest income that is not included in adjusted gross income for the taxable  
89 year described in Subsection (1)(g)(i); and

90 (iii) any addition to adjusted gross income required by Section 59-10-114 for the  
91 taxable year described in Subsection (1)(g)(i).

92 (h) "Single filing status" means a single individual who files a single federal individual  
93 income tax return for the taxable year.

94 (2) Except as provided in Section 59-10-1002.2 and Subsection (6) and subject to  
95 Subsections (3) through (5):

96 (a) each eligible age 65 or older retiree may claim a nonrefundable tax credit of \$450  
97 against taxes otherwise due under this part; or

98 (b) each eligible under age 65 retiree may claim a nonrefundable tax credit against  
99 taxes otherwise due under this part in an amount equal to the lesser of:

100 (i) \$288; or

101 (ii) the product of:

102 (A) the eligible under age 65 retiree's eligible retirement income for the taxable year for  
103 which the eligible under age 65 retiree claims a tax credit under this section; and

104 (B) 6%.

105 (3) A tax credit under this section may not be carried forward or carried back.

106 (4) The sum of the tax credits allowed by Subsection (2) claimed on one return filed  
107 under this part shall be reduced by \$.025 for each dollar by which modified adjusted gross  
108 income for purposes of the return exceeds:

109 (a) for a federal individual income tax return that is allowed a married filing separately  
110 status, \$16,000;

111 (b) for a federal individual income tax return that is allowed a single filing status,  
112 \$25,000;

113 (c) for a federal individual income tax return that is allowed a head of household filing  
114 status, \$32,000; or

115 (d) for a return under this chapter that is allowed a joint filing status, \$32,000.

116 (5) For purposes of determining the ownership of items of retirement income under this  
117 section, common law doctrine shall be applied in all cases even though some items of  
118 retirement income may have originated from service or investments in a community property

119 state.

120 (6) If an eligible age 65 or older retiree or an eligible under age 65 retiree qualifies for a  
121 tax credit under this section and under Section 59-10-1038, the eligible age 65 or older retiree  
122 or eligible under age 65 retiree may claim either the tax credit under this section or the tax  
123 credit under Section 59-10-1038.

124 Section 3. Section **59-10-1038** is enacted to read:

125 **59-10-1038. Nonrefundable tax credit for social security benefit.**

126 (1) As used in this section:

127 (a) "Claimant" means a resident or nonresident individual whose federal adjusted gross  
128 income reported on the state individual income tax return consists of at least 50% taxable  
129 social security benefit.

130 (b) "Social security benefit" means the same as that term is defined in Section 86,  
131 Internal Revenue Code.

132 (2) Except as provided in Section [59-10-1002.2](#), a claimant may claim a nonrefundable  
133 tax credit against taxes otherwise due under this part equal to the product of:

134 (a) 5%; and

135 (b) the claimant's taxable social security benefit.

136 (3) A claimant:

137 (a) may not carry forward or carry back a tax credit under this section;

138 (b) may, if the claimant qualifies for a tax credit under this section and Section  
139 59-10-1019, claim either the tax credit under this section or the tax credit under Section  
140 59-10-1019; and

141 (c) may claim a tax credit under this section for a taxable year beginning on or after  
142 January 1, 2018.

143 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
144 commission may make rules governing the calculation and method for claiming the tax credit  
145 described in this section.