

**SOCIAL SECURITY TAX CREDIT**

2018 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:

- ▶ provides definitions;
- ▶ provides that a qualifying claimant may claim a tax credit for social security benefits that are included in the claimant's federal adjusted gross income;
- ▶ provides that a qualifying claimant may claim either the retirement tax credit or the nonrefundable tax credit for social security benefits;
- ▶ provides for rulemaking authority; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides retrospective operation.

**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

ENACTS:



28 **59-10-1041**, Utah Code Annotated 1953



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

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

32 **59-10-1002.2. Apportionment of tax credits.**

33 (1) A nonresident individual or a part-year resident individual that claims a tax credit  
34 in accordance with Section **59-10-1017**, **59-10-1018**, **59-10-1019**, **59-10-1022**, **59-10-1023**,  
35 **59-10-1024**, [or] **59-10-1028**, or **59-10-1041** may only claim an apportioned amount of the tax  
36 credit equal to:

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

- 38 (i) the state income tax percentage for the nonresident individual; and
- 39 (ii) the amount of the tax credit that the nonresident individual would have been  
40 allowed to claim but for the apportionment requirements of this section; or

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

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

45 (2) A nonresident estate or trust that claims a tax credit in accordance with Section  
46 **59-10-1017**, **59-10-1020**, **59-10-1022**, **59-10-1024**, or **59-10-1028** may only claim an  
47 apportioned amount of the tax credit equal to the product of:

- 48 (a) the state income tax percentage for the nonresident estate or trust; and
- 49 (b) the amount of the tax credit that the nonresident estate or trust would have been  
50 allowed to claim but for the apportionment requirements of this section.

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

52 **59-10-1019. Definitions -- Nonrefundable retirement tax credits.**

53 (1) As used in this section:

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

- 56 (i) is 65 years of age or older; and
- 57 (ii) was born on or before December 31, 1952.

58 (b) (i) "Eligible retirement income" means income received by an eligible under age 65

59 retiree as a pension or annuity if that pension or annuity is:

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

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

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

66 (III) paid by:

67 (Aa) the United States;

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

69 (Cc) the District of Columbia.

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

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

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

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

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

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

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

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

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

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

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

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

89 (ii) any interest income that is not included in adjusted gross income for the taxable

90 year described in Subsection (1)(g)(i); and

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

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

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

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

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

101 (i) \$288; or

102 (ii) the product of:

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

105 (B) 6%.

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

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

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

112 (b) for a federal individual income tax return that is allowed a single filing status,  
113 \$25,000;

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

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

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

121 (6) If an eligible age 65 or older retiree or an eligible under age 65 retiree qualifies for  
122 a tax credit under this section and under Section 59-10-1041, the eligible age 65 or older retiree  
123 or eligible under age 65 retiree may claim either:

- 124 (a) the tax credit under this section; or  
125 (b) the tax credit under Section 59-10-1041.

126 Section 3. Section 59-10-1041 is enacted to read:

127 **59-10-1041. Nonrefundable tax credit for social security benefits.**

128 (1) As used in section:

129 (a) "Qualifying claimant" means a resident or nonresident individual whose federal  
130 adjusted gross income reported on the state individual income tax return consists of at least  
131 50% taxable social security benefit.

132 (b) "Social security benefit" means an amount received by a claimant as a monthly  
133 benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.

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

136 (a) 5%; and

137 (b) the qualifying claimant's social security benefit that is included in adjusted gross  
138 income on the claimant's federal income tax return for the taxable year.

139 (3) A qualifying claimant:

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

141 (b) may, if the claimant qualifies for a tax credit under this section and Section  
142 59-10-1019, claim either:

143 (i) the tax credit under this section; or

144 (ii) the tax credit under Section 59-10-1019.

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

148 Section 4. **Retrospective operation.**

149 This bill has retrospective operation for a taxable year beginning on or after January 1,  
150 2018.

**Legislative Review Note  
Office of Legislative Research and General Counsel**