

**NONREFUNDABLE RETIREMENT TAX CREDITS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John R. Westwood**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the Individual Income Tax Act by amending provisions relating to nonrefundable retirement tax credits.

**Highlighted Provisions:**

This bill:

- ▶ repeals the requirement that certain retirees be born on or before a certain date to be eligible for nonrefundable retirement tax credits; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides retrospective operation.

**Utah Code Sections Affected:**

AMENDS:

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

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

Section 1. Section **59-10-1019** is amended to read:

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

(1) As used in this section:



28 (a) "Eligible age 65 or older retiree" means a claimant, regardless of whether that  
29 claimant is retired, who~~[-(i)]~~ is 65 years of age or older~~[-and]~~.

30 ~~[(ii) was born on or before December 31, 1952.]~~

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

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

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

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

39 (III) paid by:

40 (Aa) the United States;

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

42 (Cc) the District of Columbia.

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

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

48 (i) is younger than 65 years of age; and

49 ~~[(ii) was born on or before December 31, 1952; and]~~

50 ~~[(iii)]~~ (ii) has eligible retirement income for the taxable year for which a tax credit is  
51 claimed under this section.

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

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

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

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

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

58 (g) "Modified adjusted gross income" means the sum of an eligible age 65 or older

59 retiree's or eligible under age 65 retiree's:

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

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

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

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

68 (2) Except as provided in Section 59-10-1002.2 and subject to Subsections (3) through  
69 (5):

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

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

74 (i) \$288; or

75 (ii) the product of:

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

78 (B) 6%.

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

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

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

85 (b) for a federal individual income tax return that is allowed a single filing status,  
86 \$25,000;

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

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

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

94 **Section 2. Retrospective operation.**

95 This bill has retrospective operation for a taxable year beginning on or after January 1,  
96 2018.

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