

Representative Tim Quinn proposes the following substitute bill:

INCOME TAX CODE AMENDMENTS

2018 SECOND SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Howard A. Stephenson

LONG TITLE

General Description:

This bill amends income tax provisions.

Highlighted Provisions:

This bill:

- ▶ prohibits a taxpayer from carrying a Utah net loss back to an earlier taxable year;
- ▶ limits the amount of Utah net loss that a taxpayer may carry forward;
- ▶ removes the 15-year time limit for a taxpayer to carry forward a Utah net loss;
- ▶ adds deferred foreign income to the definition of unadjusted income for corporate income tax purposes;
- ▶ modifies the payment schedule for a corporate taxpayer to pay the income tax on deferred foreign income;
- ▶ modifies the calculation of the taxpayer tax credit to create a Utah personal exemption; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.



26 This bill provides retrospective operation.

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **59-7-101**, as last amended by Laws of Utah 2011, Chapter 69

30 **59-7-110 (Effective 01/01/19)**, as last amended by Laws of Utah 2018, Chapter 456

31 **59-7-110 (Superseded 01/01/19)**, as last amended by Laws of Utah 2016, Chapters 311

32 and 323

33 **59-7-118**, as enacted by Laws of Utah 2018, Chapter 405

34 **59-7-522**, as last amended by Laws of Utah 2015, First Special Session, Chapter 3

35 **59-10-1018**, as last amended by Laws of Utah 2018, Chapters 415 and 456

36

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

38 Section 1. Section **59-7-101** is amended to read:

39 **59-7-101. Definitions.**

40 As used in this chapter:

41 (1) "Adjusted income" means unadjusted income as modified by Sections **59-7-105**
42 and **59-7-106**.

43 (2) (a) "Affiliated group" means one or more chains of corporations that are connected
44 through stock ownership with a common parent corporation that meet the following
45 requirements:

46 (i) at least 80% of the stock of each of the corporations in the group, excluding the
47 common parent corporation, is owned by one or more of the other corporations in the group;
48 and

49 (ii) the common parent directly owns at least 80% of the stock of at least one of the
50 corporations in the group.

51 (b) "Affiliated group" does not include corporations that are qualified to do business
52 but are not otherwise doing business in this state.

53 (c) For purposes of this Subsection (2), "stock" does not include nonvoting stock which
54 is limited and preferred as to dividends.

55 (3) "Apportionable income" means adjusted income less nonbusiness income net of
56 related expenses, to the extent included in adjusted income.

- 57 (4) "Apportioned income" means apportionable income multiplied by the
58 apportionment fraction as determined in Section 59-7-311.
- 59 (5) "Business income" [~~is as~~] means the same as that term is defined in Section
60 59-7-302.
- 61 (6) (a) "Captive real estate investment trust" means a real estate investment trust if:
62 (i) the shares or beneficial interests of the real estate investment trust are not regularly
63 traded on an established securities market; and
64 (ii) more than 50% of the voting power or value of the shares or beneficial interests of
65 the real estate investment trust are directly, indirectly, or constructively:
66 (A) owned by a controlling entity of the real estate investment trust; or
67 (B) controlled by a controlling entity of the real estate investment trust.
68 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
69 commission may make rules defining "established securities market."
- 70 (7) (a) "Common ownership" means the direct or indirect control or ownership of more
71 than 50% of the outstanding voting stock of:
72 (i) a parent-subsidiary controlled group as defined in Section 1563, Internal Revenue
73 Code, except that 50% shall be substituted for 80%;
74 (ii) a brother-sister controlled group as defined in Section 1563, Internal Revenue
75 Code; or
76 (iii) three or more corporations each of which is a member of a group of corporations
77 described in Subsection (2)(a)(i) or (ii), and one of which is:
78 (A) a common parent corporation included in a group of corporations described in
79 Subsection (2)(a)(i); and
80 (B) included in a group of corporations described in Subsection (2)(a)(ii).
81 (b) Ownership of outstanding voting stock shall be determined by Section 1563,
82 Internal Revenue Code.
- 83 (8) (a) "Controlling entity of a captive real estate investment trust" means an entity
84 that:
85 (i) is treated as an association taxable as a corporation under the Internal Revenue
86 Code;
87 (ii) is not exempt from federal income taxation under Section 501(a), Internal Revenue

88 Code; and

89 (iii) directly, indirectly, or constructively holds more than 50% of:

90 (A) the voting power of a captive real estate investment trust; or

91 (B) the value of the shares or beneficial interests of a captive real estate investment

92 trust.

93 (b) "Controlling entity of a captive real estate investment trust" does not include:

94 (i) a real estate investment trust, except for a captive real estate investment trust;

95 (ii) a qualified real estate investment subsidiary described in Section 856(i), Internal

96 Revenue Code, except for a qualified real estate investment trust subsidiary of a captive real

97 estate investment trust; or

98 (iii) a foreign real estate investment trust.

99 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
100 commission may make rules defining "established securities market."

101 (9) "Corporate return" or "return" includes a combined report.

102 (10) "Corporation" includes:

103 (a) entities defined as corporations under Sections 7701(a) and 7704, Internal Revenue

104 Code; and

105 (b) other organizations that are taxed as corporations for federal income tax purposes
106 under the Internal Revenue Code.

107 (11) "Dividend" means any distribution, including money or other type of property,
108 made by a corporation to its shareholders out of its earnings or profits accumulated after
109 December 31, 1930.

110 (12) (a) "Doing business" includes any transaction in the course of its business by a
111 domestic corporation, or by a foreign corporation qualified to do or doing intrastate business in
112 this state.

113 (b) Except as provided in Subsection [59-7-102\(3\)](#), "doing business" includes:

114 (i) the right to do business through incorporation or qualification;

115 (ii) the owning, renting, or leasing of real or personal property within this state; and

116 (iii) the participation in joint ventures, working and operating agreements, the
117 performance of which takes place in this state.

118 (13) "Domestic corporation" means a corporation that is incorporated or organized

119 under the laws of this state.

120 (14) (a) "Farmers' cooperative" means an association, corporation, or other
121 organization that is:

122 (i) (A) an association, corporation, or other organization of~~[:(F)]~~ farmers~~[:]~~ or ~~[(FF)]~~
123 fruit growers; or

124 (B) an association, corporation, or other organization that is similar to an association,
125 corporation, or organization described in Subsection (14)(a)(i)(A); and

126 (ii) organized and operated on a cooperative basis to:

127 (A) (I) market the products of members of the cooperative or the products of other
128 producers; and

129 (II) return to the members of the cooperative or other producers the proceeds of sales
130 less necessary marketing expenses on the basis of the quantity of the products of a member or
131 producer or the value of the products of a member or producer; or

132 (B) (I) purchase supplies and equipment for the use of members of the cooperative or
133 other persons; and

134 (II) turn over the supplies and equipment described in Subsection (14)(a)(ii)(B)(I) at
135 actual costs plus necessary expenses to the members of the cooperative or other persons.

136 (b) (i) Subject to Subsection (14)(b)(ii), for purposes of this Subsection (14), the
137 commission by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative
138 Rulemaking Act, shall define:

139 (A) the terms~~[:(F)]~~ "member"~~[:]~~ and ~~[(FF)]~~ "producer"; and

140 (B) what constitutes an association, corporation, or other organization that is similar to
141 an association, corporation, or organization described in Subsection (14)(a)(i)(A).

142 (ii) The rules made under this Subsection (14)(b) shall be consistent with the filing
143 requirements under federal law for a farmers' cooperative.

144 (15) "Foreign corporation" means a corporation that is not incorporated or organized
145 under the laws of this state.

146 (16) (a) "Foreign operating company" means a corporation ~~[if]~~ that:

147 (i) ~~[the corporation]~~ is incorporated in the United States;

148 (ii) conducts at least 80% of the corporation's business activity, as determined under
149 Section [59-7-401](#), ~~[is conducted]~~ outside the United States; and

150 (iii) as calculated in accordance with Part 3, Allocation and Apportionment of Income -
151 Utah UDITPA Provisions, [~~the corporation~~] has:

152 (A) at least \$1,000,000 of payroll located outside the United States; and

153 (B) at least \$2,000,000 of property located outside the United States.

154 (b) "Foreign operating company" does not include a corporation that qualifies for the
155 Puerto Rico and possession tax credit as provided in Section 936, Internal Revenue Code.

156 (17) (a) "Foreign real estate investment trust" means:

157 (i) a business entity organized outside the laws of the United States if:

158 (A) at least 75% of the business entity's total asset value at the close of the business
159 entity's taxable year is represented by:

160 (I) real estate assets, as defined in Section 856(c)(5)(B), Internal Revenue Code;

161 (II) cash or cash equivalents; or

162 (III) one or more securities issued or guaranteed by the United States;

163 (B) the business entity is:

164 (I) not subject to income taxation:

165 (Aa) on amounts distributed to the business entity's beneficial owners; and

166 (Bb) in the jurisdiction in which the business entity is organized; or

167 (II) exempt from income taxation on an entity level in the jurisdiction in which the
168 business entity is organized;

169 (C) the business entity distributes at least 85% of the business entity's taxable income,
170 as computed in the jurisdiction in which the business entity is organized, to the holders of the
171 business entity's:

172 (I) shares or beneficial interests; and

173 (II) on an annual basis;

174 (D) (I) not more than 10% of the following is held directly, indirectly, or constructively
175 by a single person:

176 (Aa) the voting power of the business entity; or

177 (Bb) the value of the shares or beneficial interests of the business entity; or

178 (II) the shares of the business entity are regularly traded on an established securities
179 market; and

180 (E) the business entity is organized in a country that has a tax treaty with the United

- 181 States; or
- 182 (ii) a listed Australian property trust.
- 183 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 184 commission may make rules defining:
- 185 (i) "cash or cash equivalents";
- 186 (ii) "established securities market"; or
- 187 (iii) "listed Australian property trust."
- 188 (18) "Income" includes losses.
- 189 (19) "Internal Revenue Code" means Title 26 of the United States Code as effective
- 190 during the year in which Utah taxable income is determined.
- 191 (20) "Nonbusiness income" ~~[is as]~~ means the same as that term is defined in Section
- 192 [59-7-302](#).
- 193 (21) "Real estate investment trust" ~~[is as]~~ means the same as that term is defined in
- 194 Section 856, Internal Revenue Code.
- 195 (22) "Related expenses" means:
- 196 (a) expenses directly attributable to nonbusiness income; and
- 197 (b) the portion of interest or other expense indirectly attributable to both nonbusiness
- 198 and business income ~~[which]~~ that bears the same ratio to the aggregate amount of such interest
- 199 or other expense, determined without regard to this Subsection (22), as the average amount of
- 200 the asset producing the nonbusiness income bears to the average amount of all assets of the
- 201 taxpayer within the taxable year.
- 202 ~~[(24)]~~ (23) "S corporation" means an S corporation as defined in Section 1361, Internal
- 203 Revenue Code.
- 204 ~~[(23)]~~ (24) "Safe harbor lease" means a lease that qualified as a safe harbor lease under
- 205 Section 168, Internal Revenue Code.
- 206 (25) "State of the United States" includes any of the 50 states or the District of
- 207 Columbia.
- 208 (26) (a) "Taxable year" means the calendar year or the fiscal year ending during such
- 209 calendar year upon the basis of which the adjusted income is computed.
- 210 (b) In the case of a return made for a fractional part of a year under this chapter or
- 211 under rules prescribed by the commission, "taxable year" includes the period for which such

212 return is made.

213 (27) "Taxpayer" means any corporation subject to the tax imposed by this chapter.

214 (28) "Threshold level of business activity" means business activity in the United States
215 equal to or greater than 20% of the corporation's total business activity as determined under
216 Section [59-7-401](#).

217 (29) (a) "Unadjusted income" means federal taxable income as determined on a
218 separate return basis before intercompany eliminations as determined by the Internal Revenue
219 Code, before the net operating loss deduction and special deductions for dividends received.

220 (b) For the last taxable year of a taxpayer beginning on or before December 31, 2017,
221 "unadjusted income" includes deferred foreign income described in Section 965(a), Internal
222 Revenue Code.

223 (30) (a) "Unitary group" means a group of corporations that:

224 (i) are related through common ownership; and

225 (ii) by a preponderance of the evidence as determined by a court of competent
226 jurisdiction or the commission, are economically interdependent with one another as
227 demonstrated by the following factors:

228 (A) centralized management;

229 (B) functional integration; and

230 (C) economies of scale.

231 (b) "Unitary group" includes a captive real estate investment trust.

232 (c) "Unitary group" does not include an S corporation.

233 (31) "United States" includes the 50 states and the District of Columbia.

234 (32) "Utah net loss" means the current year Utah taxable income before Utah net loss
235 deduction, if determined to be less than zero.

236 (33) (a) For a taxable year beginning on or before December 31, 2017, "Utah net loss
237 deduction" means the amount of Utah net losses from other taxable years that [~~may be carried~~
238 ~~back or carried~~] a taxpayer may carry back or carry forward to the current taxable year in
239 accordance with Section [59-7-110](#).

240 (b) For a taxable year beginning on or after January 1, 2018, "Utah net loss deduction"
241 means the amount of Utah net losses from other taxable years that a taxpayer may carry
242 forward to the current taxable year in accordance with Section [59-7-110](#).

243 (34) (a) "Utah taxable income" means Utah taxable income before net loss deduction
244 less Utah net loss deduction.

245 (b) "Utah taxable income" includes income from tangible or intangible property located
246 or having situs in this state, regardless of whether carried on in intrastate, interstate, or foreign
247 commerce.

248 (35) "Utah taxable income before net loss deduction" means apportioned income plus
249 nonbusiness income allocable to Utah net of related expenses.

250 (36) (a) "Water's edge combined report" means a report combining the income and
251 activities of:

252 (i) all members of a unitary group that are:

253 (A) corporations organized or incorporated in the United States, including those
254 corporations qualifying for the Puerto Rico and Possession Tax Credit as provided in Section
255 936, Internal Revenue Code, in accordance with Subsection (36)(b); and

256 (B) corporations organized or incorporated outside of the United States meeting the
257 threshold level of business activity; and

258 (ii) an affiliated group electing to file a water's edge combined report under Subsection
259 [59-7-402\(2\)](#).

260 (b) There is a rebuttable presumption that a corporation which qualifies for the Puerto
261 Rico and possession tax credit provided in Section 936, Internal Revenue Code, is part of a
262 unitary group.

263 (37) "Worldwide combined report" means the combination of the income and activities
264 of all members of a unitary group irrespective of the country in which the corporations are
265 incorporated or conduct business activity.

266 Section 2. Section **59-7-110 (Superseded 01/01/19)** is amended to read:

267 **59-7-110 (Superseded 01/01/19). Utah net loss -- Carryforward and carryback --**
268 **Deduction.**

269 (1) [~~The amount of Utah net loss that shall be carried back or~~] A taxpayer shall
270 determine the amount of Utah net loss that the taxpayer may carry forward to offset income of
271 another taxable year [is determined] as provided in this section.

272 [~~(2) (a) Subject to the other provisions of this section, a Utah net loss from a taxable~~
273 ~~year beginning before January 1, 1994, shall be carried back three taxable years preceding the~~

274 taxable year of the loss and any remaining loss shall be carried forward five taxable years
275 following the taxable year of the loss:]

276 ~~[(b) (i) Subject to the other provisions of this section, a Utah net loss from a taxable~~
277 ~~year beginning on or after January 1, 1994, may be carried back three taxable years preceding~~
278 ~~the taxable year of the loss and carried forward 15 taxable years following the taxable year of~~
279 ~~the loss:]~~

280 ~~[(ii) If an election is made to forego the federal net operating loss carryback, a Utah net~~
281 ~~loss is not eligible to be carried back unless an election is made for state purposes:]~~

282 (2) Subject to the other provisions of this section, a taxpayer:

283 (a) may carry forward a Utah net loss from a taxable year to a future taxable year; and

284 (b) may not carry back a Utah net loss from a taxable year.

285 (3) A taxpayer that carries forward a Utah net loss shall carry forward the Utah net loss
286 ~~[shall be carried]~~ to the earliest eligible year for which the Utah taxable income before net loss
287 deduction, minus Utah net losses from previous years ~~[that were applied or required to be~~
288 ~~applied]~~ that a taxpayer applied or was required to apply to offset income, is not less than zero.

289 (4) (a) [Except as provided in] Subject to Subsection (4)(b), the amount of Utah net
290 ~~loss that [shall be carried]~~ a taxpayer may carry to the year identified in Subsection (3) is the
291 lesser of:

292 (i) the remaining Utah net loss after deduction of any amounts of the Utah net loss that
293 ~~[were]~~ a taxpayer carried to previous years; or

294 (ii) the remaining Utah taxable income before net loss deduction of the year identified
295 in Subsection (3) after deduction of Utah net losses from previous years ~~[that were carried or~~
296 ~~required to be carried]~~ that a taxpayer carried or was required to carry to the year identified in
297 Subsection (3).

298 ~~[(b) (i) The amount of Utah net loss carried back from a taxable year may not exceed~~
299 ~~\$1,000,000 in Utah taxable income for each return filed under this chapter in a taxable year:]~~

300 ~~[(ii) A Utah net loss in excess of \$1,000,000 may be carried forward.]~~

301 (b) (i) The amount of Utah net loss that a taxpayer may carry forward to a taxable year
302 may not exceed 80% of Utah taxable income computed without regard to the deduction
303 allowable under this section.

304 ~~[(iii)]~~ (ii) A taxpayer may carry a remaining Utah net loss ~~[shall be available to be~~

305 carried] to one or more taxable years in accordance with this section.

306 (5) (a) (i) Subject to Subsection (5)(a)(ii), a corporation acquiring the assets or stock of
307 another corporation may not deduct any net loss incurred by the acquired corporation prior to
308 the date of acquisition.

309 (ii) Subsection (5)(a)(i) does not apply if the only change in the corporation is that of
310 the state of incorporation.

311 (b) An acquired corporation may deduct the acquired corporation's net losses incurred
312 before the date of acquisition against the acquired corporation's separate income as calculated
313 under Subsections (6) and (7) if the acquired corporation has continued to carry on a trade or
314 business substantially the same as that conducted before the acquisition.

315 (6) For purposes of Subsection (5)(b), the amount of net loss an acquired corporation
316 that is acquired by a unitary group may deduct is calculated by:

317 (a) subject to Subsection (7):

318 (i) except as provided in Subsection (6)(a)(ii), calculating the sum of:

319 (A) an amount determined by dividing the average value of the acquired corporation's
320 real and tangible personal property owned or rented and used in this state during the taxable
321 year by the average value of all of the unitary group's real and tangible personal property owned
322 or rented and used during the taxable year;

323 (B) an amount determined by dividing the total amount paid in this state during the
324 taxable year by the acquired corporation for compensation by the total compensation paid
325 everywhere by the unitary group during the taxable year; and

326 (C) an amount determined by:

327 (I) dividing the total sales of the acquired corporation in this state during the taxable
328 year by the total sales of the unitary group everywhere during the taxable year; and

329 (II) if the unitary group elects to calculate the fraction for apportioning business
330 income to this state using the method described in Subsection 59-7-311(2)(b), multiplying the
331 amount calculated under Subsection (6)(a)(i)(C)(I) by two; or

332 (ii) if the unitary group is required or elects to calculate the fraction for apportioning
333 business income to this state using the method described in Subsection 59-7-311(3), calculating
334 an amount determined by dividing the total sales of the acquired corporation in this state during
335 the taxable year by the total sales of the unitary group everywhere during the taxable year;

336 (b) dividing the amount calculated under Subsection (6)(a) by the same denominator of
 337 the fraction the unitary group uses to apportion business income to this state:

338 (i) for that taxable year; and

339 (ii) in accordance with Section 59-7-311;

340 (c) multiplying the amount calculated under Subsection (6)(b) by the business income
 341 of the unitary group for the taxable year that is subject to apportionment under Section
 342 59-7-311; and

343 (d) calculating the sum of:

344 (i) the amount calculated under Subsection (6)(c); and

345 (ii) the following amounts allocable to the acquired corporation for the taxable year:

346 (A) nonbusiness income allocable to this state; or

347 (B) nonbusiness loss allocable to this state.

348 (7) The amounts calculated under Subsection (6)(a) shall be derived in the same
 349 manner as those amounts are derived for purposes of apportioning the unitary group's business
 350 income before deducting the net loss, including a modification made in accordance with
 351 Section 59-7-320.

352 Section 3. Section 59-7-110 (Effective 01/01/19) is amended to read:

353 **59-7-110 (Effective 01/01/19). Utah net loss -- Carryforward and carryback --**
 354 **Deduction.**

355 (1) A taxpayer shall determine the amount of Utah net loss that the taxpayer may carry
 356 [~~back or~~] forward to offset income of another taxable year as provided in this section.

357 (2) [~~(a)~~] Subject to the other provisions of this section, a taxpayer [~~may~~]:

358 [~~(i) carry back a Utah net loss from a taxable year for three taxable years preceding the~~
 359 ~~taxable year of the loss; and]~~

360 [~~(ii) (a) may carry forward a Utah net loss from a taxable year [for 15 taxable years~~
 361 ~~following the taxable year of the loss.] to a future taxable year; and~~

362 [~~(b) If a taxpayer elects to forego the federal net operating loss carryback, the taxpayer~~
 363 ~~may not carry back a Utah net loss unless the taxpayer makes an election for state purposes.]~~

364 (b) may not carry back a Utah net loss from a taxable year.

365 (3) A taxpayer that carries forward a Utah net loss shall carry forward the Utah net loss
 366 to the earliest eligible year for which the Utah taxable income before net loss deduction, minus

367 Utah net losses from previous years that a taxpayer applied or was required to apply to offset
368 income, is not less than zero.

369 (4) (a) [~~Except as provided in~~] Subject to Subsection (4)(b), the amount of Utah net
370 loss that a taxpayer may carry to the year identified in Subsection (3) is the lesser of:

371 (i) the remaining Utah net loss after deduction of any amounts of the Utah net loss that
372 a taxpayer carried to previous years; or

373 (ii) the remaining Utah taxable income before net loss deduction of the year identified
374 in Subsection (3) after deduction of Utah net losses from previous years that a taxpayer carried
375 or was required to carry to the year identified in Subsection (3).

376 [~~(b) (i) The amount of Utah net loss that a taxpayer carries back from a taxable year
377 may not exceed \$1,000,000 in Utah taxable income for each return filed under this chapter in a
378 taxable year.~~]

379 [~~(ii) A taxpayer may carry forward a Utah net loss in excess of \$1,000,000.~~]

380 (b) (i) The amount of Utah net loss that a taxpayer may carry forward to a taxable year
381 may not exceed 80% of Utah taxable income computed without regard to the deduction
382 allowable under this section.

383 [~~(iii)~~] (ii) A taxpayer may carry a remaining Utah net loss to one or more taxable years
384 in accordance with this section.

385 (5) (a) (i) Subject to Subsection (5)(a)(ii), a corporation acquiring the assets or stock of
386 another corporation may not deduct any net loss incurred by the acquired corporation prior to
387 the date of acquisition.

388 (ii) Subsection (5)(a)(i) does not apply if the only change in the corporation is that of
389 the state of incorporation.

390 (b) An acquired corporation may deduct the acquired corporation's net losses incurred
391 before the date of acquisition against the acquired corporation's separate income as calculated
392 under Subsections (6) and (7) if the acquired corporation has continued to carry on a trade or
393 business substantially the same as that conducted before the acquisition.

394 (6) For purposes of Subsection (5)(b), the amount of net loss an acquired corporation
395 that is acquired by a unitary group may deduct is calculated by:

396 (a) subject to Subsection (7):

397 (i) except as provided in Subsection (6)(a)(ii), calculating the sum of:

398 (A) an amount determined by dividing the average value of the acquired corporation's
399 real and tangible personal property owned or rented and used in this state during the taxable
400 year by the average value of all of the unitary group's real and tangible personal property owned
401 or rented and used during the taxable year;

402 (B) an amount determined by dividing the total amount paid in this state during the
403 taxable year by the acquired corporation for compensation by the total compensation paid
404 everywhere by the unitary group during the taxable year; and

405 (C) an amount determined by:

406 (I) dividing the total sales of the acquired corporation in this state during the taxable
407 year by the total sales of the unitary group everywhere during the taxable year; and

408 (II) if the unitary group elects or is required to calculate the fraction for apportioning
409 business income to this state using the method described in Subsection 59-7-311(4) in taxable
410 year 2019 or taxable year 2020, multiplying the amount calculated under Subsection
411 (6)(a)(i)(C)(I) by, for the taxable year 2019, four, or, for the taxable year 2020, eight; or

412 (ii) if the unitary group is required or elects to calculate the fraction for apportioning
413 business income to this state using the method described in Subsection 59-7-311(2), calculating
414 an amount determined by dividing the total sales of the acquired corporation in this state during
415 the taxable year by the total sales of the unitary group everywhere during the taxable year;

416 (b) dividing the amount calculated under Subsection (6)(a) by the same denominator of
417 the fraction the unitary group uses to apportion business income to this state for that taxable
418 year in accordance with Section 59-7-311;

419 (c) multiplying the amount calculated under Subsection (6)(b) by the business income
420 of the unitary group for the taxable year that is subject to apportionment under Section
421 59-7-311; and

422 (d) calculating the sum of:

423 (i) the amount calculated under Subsection (6)(c); and

424 (ii) the following amounts allocable to the acquired corporation for the taxable year:

425 (A) nonbusiness income allocable to this state; or

426 (B) nonbusiness loss allocable to this state.

427 (7) The amounts calculated under Subsection (6)(a) shall be derived in the same
428 manner as those amounts are derived for purposes of apportioning the unitary group's business

429 income before deducting the net loss, including a modification made in accordance with
430 Section 59-7-320.

431 Section 4. Section 59-7-118 is amended to read:

432 **59-7-118. Section 965, Internal Revenue Code -- Installment payments.**

433 (1) Subject to the other provisions of this section, a corporation may pay in
434 installments the tax owed under this chapter on deferred foreign income described in Section
435 965, Internal Revenue Code.

436 (2) Subsection (1) applies:

437 (a) to a corporation that:

438 (i) is authorized to make an election under Section 965(h), Internal Revenue Code; and

439 (ii) apportions deferred foreign income described in Section 965, Internal Revenue
440 Code, to this state; and

441 (b) for a tax year in which a corporation makes an election under Section 965(h),
442 Internal Revenue Code, for purposes of the corporation's federal income tax.

443 (3) ~~[The]~~ (a) Except as provided in Subsection (3)(b), the same provisions that apply
444 to an election made under Section 965(h), Internal Revenue Code, for federal purposes apply to
445 an installment payment made under this section.

446 (b) A corporation shall make:

447 (i) the first installment under this section on or before the due date, including any
448 extension, of the 2017 tax return filed under this chapter; and

449 (ii) a subsequent installment on or before the due date, including any extension, of the
450 tax return filed under this chapter in each of the following seven years.

451 Section 5. Section 59-7-522 is amended to read:

452 **59-7-522. Overpayments.**

453 (1) As used in this section, "overpayment" means the same as that term is defined in
454 Section 59-1-1409.

455 (2) (a) Subject to Subsection (2)(b), a claim for credit or refund of an overpayment that
456 is attributable to a Utah net loss ~~[carry back or]~~ carry forward shall be filed within three years
457 from the due date of the return for the taxable year of the Utah net loss.

458 (b) The three-year period described in Subsection (2)(a) shall be extended by any
459 extension of time provided in statute for filing the return described in Subsection (2)(a).

460 (3) The commission shall make a credit against or refund of any overpayment of a tax
461 under this chapter for a taxable year if, in accordance with Section 59-7-519:

462 (a) (i) a corporation agrees with the commissioner of internal revenue for an extension,
463 or a renewal of an extension, of the period for proposing and assessing a deficiency in federal
464 income tax for that taxable year; or

465 (ii) there is a change in or correction of federal taxable income for that taxable year;
466 and

467 (b) the corporation files a claim for the credit or refund before the expiration of the
468 time period within which the commission may assess a deficiency.

469 (4) The commission shall make a credit or refund within a 30-day period after the day
470 on which a court's decision to require the commission to credit or refund the amount of an
471 overpayment to a taxpayer is final.

472 Section 6. Section 59-10-1018 is amended to read:

473 **59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.**

474 (1) As used in this section:

475 [~~(a) "Dependent adult with a disability" means an individual who:~~]

476 [~~(i) a claimant claims as a dependent under Section 151, Internal Revenue Code, on the
477 claimant's federal individual income tax return for the taxable year;~~]

478 [~~(ii) is not the claimant or the claimant's spouse; and~~]

479 [~~(iii) is:~~]

480 [~~(A) 18 years of age or older;~~]

481 [~~(B) eligible for services under Title 62A, Chapter 5, Services for People with
482 Disabilities; and~~]

483 [~~(C) not enrolled in an education program for students with disabilities that is
484 authorized under Section 53E-7-202.]~~]

485 [~~(b) "Dependent child with a disability" means an individual 21 years of age or younger
486 who:~~]

487 [~~(i) a claimant claims as a dependent under Section 151, Internal Revenue Code, on the
488 claimant's federal individual income tax return for the taxable year;~~]

489 [~~(ii) is not the claimant or the claimant's spouse; and~~]

490 [~~(iii) is:~~]

491 ~~[(A) an eligible student with a disability; or]~~
492 ~~[(B) identified under guidelines of the Department of Health as qualified for Early~~
493 ~~Intervention or Infant Development Services.]~~
494 ~~[(c) "Eligible student with a disability" means an individual who is:]~~
495 ~~[(i) diagnosed by a school district representative under rules the State Board of~~
496 ~~Education adopts in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking~~
497 ~~Act, as having a disability classified as autism, deafness, preschool developmental delay, dual~~
498 ~~sensory impairment, hearing impairment, intellectual disability, multidisability, orthopedic~~
499 ~~impairment, other health impairment, traumatic brain injury, or visual impairment;]~~
500 ~~[(ii) not receiving residential services from the Division of Services for People with~~
501 ~~Disabilities created under Section ~~62A-5-102~~ or a school established under Title 53E, Chapter~~
502 ~~8, Utah Schools for the Deaf and the Blind; and]~~
503 ~~[(iii) (A) enrolled in an education program for students with disabilities that is~~
504 ~~authorized under Section ~~53E-7-202~~; or]~~
505 ~~[(B) a recipient of a scholarship awarded under Title 53F, Chapter 4, Part 3, Carson~~
506 ~~Smith Scholarship Program.]~~
507 ~~[(d)] (a) "Head of household filing status" means a head of household, as defined in~~
508 ~~Section 2(b), Internal Revenue Code, who files a single federal individual income tax return for~~
509 ~~the taxable year.~~
510 ~~[(e)] (b) "Joint filing status" means:~~
511 ~~(i) spouses who file a single return jointly under this chapter for a taxable year; or~~
512 ~~(ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a~~
513 ~~single federal individual income tax return for the taxable year.~~
514 ~~(c) "Qualifying dependent" means an individual with respect to whom the claimant is~~
515 ~~allowed to claim a tax credit under Section 24, Internal Revenue Code, on the claimant's~~
516 ~~federal individual income tax return for the taxable year.~~
517 ~~[(f)] (d) "Single filing status" means:~~
518 ~~(i) a single individual who files a single federal individual income tax return for the~~
519 ~~taxable year; or~~
520 ~~(ii) a married individual who:~~
521 ~~(A) does not file a single federal individual income tax return jointly with that married~~

522 individual's spouse for the taxable year; and

523 (B) files a single federal individual income tax return for the taxable year.

524 ~~[(g)]~~ (e) "State or local income tax" means the lesser of:

525 (i) the amount of state or local income tax that the claimant:

526 (A) pays for the taxable year; and

527 (B) reports on the claimant's federal individual income tax return for the taxable year,

528 regardless of whether the claimant is allowed an itemized deduction on the claimant's federal

529 individual income tax return for the taxable year for the full amount of state or local income tax

530 paid; and

531 (ii) \$10,000.

532 ~~[(h)]~~ (f) (i) "Utah itemized deduction" means the amount the claimant deducts as

533 allowed as an itemized deduction on the claimant's federal individual income tax return for that

534 taxable year minus any amount of state or local income tax for the taxable year.

535 ~~[(f)]~~ (g) "Utah itemized deduction" does not include any amount of qualified business

536 income that the claimant subtracts as allowed by Section 199A, Internal Revenue Code, on the

537 claimant's federal income tax return for that taxable year.

538 (h) "Utah personal exemption" means, subject to Subsection (6), \$565 multiplied by
539 the number of the claimant's qualifying dependents.

540 (2) Except as provided in Section [59-10-1002.2](#), and subject to Subsections (3) through
541 (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part
542 equal to the sum of:

543 (a) (i) for a claimant that deducts the standard deduction on the claimant's federal
544 individual income tax return for the taxable year, 6% of the amount the claimant deducts as
545 allowed as the standard deduction on the claimant's federal individual income tax return for
546 that taxable year; or

547 (ii) for a claimant that itemizes deductions on the claimant's federal individual income
548 tax return for the taxable year, 6% of the amount of the claimant's Utah itemized deduction;
549 and

550 (b) ~~[the product of:]~~ 6% of the claimant's Utah personal exemption.

551 ~~[(i) 75% of the total amount the claimant deducts as allowed as a personal exemption~~
552 ~~deduction on the claimant's federal individual income tax return for that taxable year, plus an~~

553 ~~additional 75% of the amount the claimant deducts as allowed as a personal exemption~~
554 ~~deduction on the claimant's federal individual income tax return for that taxable year with~~
555 ~~respect to each dependent adult with a disability or dependent child with a disability; and]~~
556 ~~[(ii) 6%.]~~

557 (3) A claimant may not carry forward or carry back a tax credit under this section.

558 (4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar
559 by which a claimant's state taxable income exceeds:

560 (a) for a claimant who has a single filing status, \$12,000;

561 (b) for a claimant who has a head of household filing status, \$18,000; or

562 (c) for a claimant who has a joint filing status, \$24,000.

563 (5) (a) For a taxable year beginning on or after January 1, 2009, the commission shall
564 increase or decrease annually the following dollar amounts by a percentage equal to the
565 percentage difference between the consumer price index for the preceding calendar year and
566 the consumer price index for calendar year 2007:

567 (i) the dollar amount listed in Subsection (4)(a); and

568 (ii) the dollar amount listed in Subsection (4)(b).

569 (b) After the commission increases or decreases the dollar amounts listed in Subsection
570 (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the
571 nearest whole dollar.

572 (c) After the commission rounds the dollar amounts as required by Subsection (5)(b),
573 the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that
574 the dollar amount listed in Subsection (4)(c) is equal to the product of:

575 (i) the dollar amount listed in Subsection (4)(a); and

576 (ii) two.

577 (d) For purposes of Subsection (5)(a), the commission shall calculate the consumer
578 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

579 (6) (a) For a taxable year beginning on or after January 1, 2019, the commission shall
580 increase annually the Utah personal exemption amount listed in Subsection (1)(h) by a
581 percentage equal to the percentage by which the consumer price index for the preceding
582 calendar year exceeds the consumer price index for calendar year 2017.

583 (b) After the commission increases the Utah personal exemption amount as described

584 in Subsection (6)(a), the commission shall round the Utah personal exemption amount to the
585 nearest whole dollar.

586 (c) For purposes of Subsection (6)(a), the commission shall calculate the consumer
587 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

588 (7) A claimant may not claim a Utah personal exemption unless the claimant provides
589 the social security number for each qualifying dependent that the claimant includes in the Utah
590 personal exemption calculation.

591 **Section 7. Effective date.**

592 (1) Except as provided in Subsection (2), if approved by two-thirds of all the members
593 elected to each house, this bill takes effect upon approval by the governor, or the day following
594 the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's
595 signature, or in the case of a veto, the date of veto override.

596 (2) The amendments to Section [59-7-110](#) (Effective 01/01/19) take effect on January 1,
597 2019.

598 **Section 8. Retrospective operation.**

599 (1) Except as provided in Subsections (2) and (3), this bill has retrospective operation
600 for the last taxable year of a taxpayer beginning on or before December 31, 2017.

601 (2) The amendments to Section [59-7-118](#) have retrospective operation for a taxable
602 year beginning on or after January 1, 2017.

603 (3) The amendments to Sections [59-7-110](#) (Superseded 01/01/19), [59-7-522](#), and
604 [59-10-1018](#) have retrospective operation for a taxable year beginning on or after January 1,
605 2018.