

**Representative Walt Brooks** proposes the following substitute bill:

**SOCIAL SECURITY TAX AMENDMENTS**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Walt Brooks**

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

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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 claimant may claim a tax credit for 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 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



26 **59-10-1019**, as renumbered and amended by Laws of Utah 2008, Chapter 389

27 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 credit.**

53 (1) As used in this section:

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

56 (i) is over 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~~  
59 ~~65 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~~  
61 ~~under age 65 retiree; and]~~
- 62 ~~[(B) (f) paid from an annuity contract purchased by an employer under a plan that~~  
63 ~~meets the requirements of Section 404(a)(2), Internal Revenue Code;]~~
- 64 ~~[(H) purchased by an employee under a plan that meets the requirements of Section~~  
65 ~~408, Internal Revenue Code; or]~~
- 66 ~~[(HH) 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~~  
78 ~~claimed under this section:]~~
- 79 ~~[(d)] (b) "Head of household filing status" is as defined in Section 59-10-1018.~~
- 80 ~~[(e)] (c) "Joint filing status" is as defined in Section 59-10-1018.~~
- 81 ~~[(f)] (d) "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)] (e) "Modified adjusted gross income" means the sum of an eligible over age 65~~  
86 ~~[or older] 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)](e)~~(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)](e)~~(i).

93 ~~[(h)]~~ (f) "Single filing status" means a single individual who files a single federal  
94 individual 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)~~[(a)]~~, each eligible over age 65 ~~[or older]~~ retiree may claim a  
97 nonrefundable tax credit of \$450 against taxes otherwise due under this part~~[(a)]~~.

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  
103 for 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]~~ tax credit allowed by Subsection (2) claimed on ~~[one]~~ a  
107 return filed under this part shall be reduced by \$.025 for each dollar by which modified  
108 adjusted gross 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 over age 65 retiree qualifies for a tax credit under this section and  
121 under Section 59-10-1041, the eligible over age 65 retiree may claim either:

122 (a) the tax credit under this section; or

123 (b) the tax credit under Section 59-10-1041.

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

125 **59-10-1041. Nonrefundable tax credit for social security benefits.**

126 (1) As used in this section:

127 (a) "Head of household filing status" means the same as that term is defined in Section  
128 59-10-1018.

129 (b) "Joint filing status" means the same as that term is defined in Section 59-10-1018.

130 (c) "Married filing separately status" means a married individual who:

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

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

134 (d) "Modified adjusted gross income" means the sum of a claimant's:

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

137 (ii) any interest income that is not included in adjusted gross income for the taxable  
138 year described in Subsection (1)(d)(i); and

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

141 (e) "Single filing status" means a single individual who files a single federal individual  
142 income tax return for the taxable year.

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

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

147 (a) 4.95%; and

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

150           (3) A claimant:  
151           (a) may not carry forward or carry back a tax credit under this section; and  
152           (b) may not claim a tax credit under this section if a tax credit under Section  
153 59-10-1019 is claimed on the return.  
154           (4) The tax credit allowed by Subsection (2) claimed on a return filed under this part  
155 shall be reduced by \$.025 for each dollar by which modified adjusted gross income for  
156 purposes of the return exceeds:  
157           (a) for a federal individual income tax return that is allowed a married filing separately  
158 status, \$22,500;  
159           (b) for a federal individual income tax return that is allowed a single filing status,  
160 \$30,000;  
161           (c) for a federal individual income tax return that is allowed a head of household filing  
162 status, \$45,000; or  
163           (d) for a return under this chapter that is allowed a joint filing status, \$45,000.  
164           (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
165 commission may make rules governing the calculation and method for claiming the tax credit  
166 described in this section.  
167           Section 4. **Retrospective operation.**  
168           This bill has retrospective operation for a taxable year beginning on or after January 1,  
169 2019.