

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

**SOCIAL SECURITY TAX AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Walt Brooks**

Senate Sponsor: Don L. Ipson

6	Cosponsors:	A. Cory Maloy	V. Lowry Snow
7	Carl R. Albrecht	Calvin R. Musselman	Keven J. Stratton
8	Kay J. Christofferson	Merrill F. Nelson	Steve Waldrip
9	Joel Ferry	Lee B. Perry	Mike Winder
10	Suzanne Harrison	Susan Pulsipher	
11	Karianne Lisonbee	Rex P. Shipp	

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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 terms;
- ▶ enacts a tax credit for social security benefits that are included in the claimant's federal adjusted gross income;
- ▶ provides that an individual who claims the tax credit for social security benefits may not also claim the retirement tax credit;
- ▶ grants rulemaking authority to the State Tax Commission; and
- ▶ makes technical and conforming changes.



25 **Money Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**

28 This bill provides retrospective operation.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **59-10-1002.2**, as last amended by Laws of Utah 2016, Chapter 263

32 **59-10-1019**, as renumbered and amended by Laws of Utah 2008, Chapter 389

33 ENACTS:

34 **59-10-1041**, Utah Code Annotated 1953



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

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

38 **59-10-1002.2. Apportionment of tax credits.**

39 (1) A nonresident individual or a part-year resident individual that claims a tax credit  
40 in accordance with Section **59-10-1017**, **59-10-1018**, **59-10-1019**, **59-10-1022**, **59-10-1023**,  
41 **59-10-1024**, [or] **59-10-1028**, or **59-10-1041** may only claim an apportioned amount of the tax  
42 credit equal to:

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

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

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

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

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

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

51 (2) A nonresident estate or trust that claims a tax credit in accordance with Section  
52 **59-10-1017**, **59-10-1020**, **59-10-1022**, **59-10-1024**, or **59-10-1028** may only claim an  
53 apportioned amount of the tax credit equal to the product of:

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

55 (b) the amount of the tax credit that the nonresident estate or trust would have been

56 allowed to claim but for the apportionment requirements of this section.

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

58 **59-10-1019. Definitions -- Nonrefundable retirement tax credit.**

59 (1) As used in this section:

60 (a) "Eligible over age 65 [~~or older~~] retiree" means a claimant, regardless of whether  
61 that claimant is retired, who[?] was born on or before December, 1952.

62 [~~(i) is 65 years of age or older; and]~~

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

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

66 [~~(A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible  
67 under age 65 retiree; and]~~

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

70 [~~(H) purchased by an employee under a plan that meets the requirements of Section  
71 408, Internal Revenue Code; or]~~

72 [~~(III) paid by:]~~

73 [~~(Aa) the United States;]~~

74 [~~(Bb) a state or a political subdivision of a state; or]~~

75 [~~(Cc) the District of Columbia.]~~

76 [~~(ii) "Eligible retirement income" does not include amounts received by the spouse of a  
77 living eligible under age 65 retiree because of the eligible under age 65 retiree's having been  
78 employed in a community property state.]~~

79 [~~(c) "Eligible under age 65 retiree" means a claimant, regardless of whether that  
80 claimant is retired, who:]~~

81 [~~(i) is younger than 65 years of age;]~~

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

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

85 [~~(d)~~] (b) "Head of household filing status" [~~is as~~] means the same as that term is  
86 defined in Section **59-10-1018**.

87 ~~[(e)]~~ (c) "Joint filing status" ~~[is as]~~ means the same as that term is defined in Section  
88 59-10-1018.

89 ~~[(f)]~~ (d) "Married filing separately status" means a married individual who:

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

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

93 ~~[(g)]~~ (e) "Modified adjusted gross income" means the sum of an eligible over age 65  
94 ~~[or older]~~ retiree's ~~[or eligible under age 65 retiree's]~~:

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

97 (ii) any interest income that is not included in adjusted gross income for the taxable  
98 year described in Subsection (1)~~[(g)]~~(e)(i); and

99 (iii) any addition to adjusted gross income required by Section 59-10-114 for the  
100 taxable year described in Subsection (1)~~[(g)]~~(e)(i).

101 ~~[(h)]~~ (f) "Single filing status" means a single individual who files a single federal  
102 individual income tax return for the taxable year.

103 (2) Except as provided in Section 59-10-1002.2 and ~~[subject to]~~ Subsections (3)  
104 ~~[through (5): (a)]~~ and (4), each eligible age over 65 ~~[or older]~~ retiree may claim a  
105 nonrefundable tax credit of \$450 against taxes otherwise due under this part~~[; or]~~.

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

108 ~~[(i) \$288; or]~~

109 ~~[(ii) the product of:]~~

110 ~~[(A) the eligible under age 65 retiree's eligible retirement income for the taxable year~~  
111 ~~for which the eligible under age 65 retiree claims a tax credit under this section; and]~~

112 ~~[(B) 6%.]~~

113 ~~[(3) A tax credit under this section may not be carried forward or carried back.]~~

114 (3) (a) An eligible over age 65 retiree may not:

115 (i) carry forward or carry back a tax credit under this section; or

116 (ii) claim a tax credit under this section and a tax credit under Section 59-10-1041.

117 (b) An eligible over age 65 retiree who qualifies for a tax credit under this section and

118 a tax credit under Section [59-10-1041](#) may elect whether to claim a tax credit under this section  
119 or a tax credit under Section [59-10-1041](#).

120 (4) The ~~[sum of the tax credits]~~ tax credit allowed by Subsection (2) claimed on ~~[one]~~ a  
121 return filed under this part shall be reduced by \$.025 for each dollar by which modified  
122 adjusted gross income for purposes of the return exceeds:

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

125 (b) for a federal individual income tax return that is allowed a single filing status,  
126 \$25,000;

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

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

130 ~~[(5) For purposes of determining the ownership of items of retirement income under  
131 this section, common law doctrine shall be applied in all cases even though some items of  
132 retirement income may have originated from service or investments in a community property  
133 state.]~~

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

135 **59-10-1041. Nonrefundable tax credit for social security benefits.**

136 (1) As used in this section:

137 (a) "Head of household filing status" means the same as that term is defined in Section  
138 [59-10-1018](#).

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

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

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

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

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

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

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

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

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

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

155 (2) Except as provided in Section 59-10-1002.2 and Subsections (3) and (4), each  
156 claimant on a return that receives a social security benefit may claim a nonrefundable tax credit  
157 against taxes otherwise due under this part equal to the product of:

158 (a) the percentage listed in Subsection 59-10-104(2); and

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

161 (3) (a) A claimant may not:

162 (i) carry forward or carry back a tax credit under this section; or

163 (ii) claim a tax credit under this section and a tax credit under Section 59-10-1019.

164 (b) A claimant that qualifies for a tax credit under this section and a tax credit under  
165 Section 59-10-1019 may elect whether to claim a tax credit under this section or a tax credit  
166 under Section 59-10-1019.

167 (4) The tax credit allowed by Subsection (2) claimed on a return filed under this part  
168 shall be reduced by \$.025 for each dollar by which modified adjusted gross income for  
169 purposes of the return exceeds:

170 (a) for a federal individual income tax return that is allowed a married filing separately  
171 status, \$22,500;

172 (b) for a federal individual income tax return that is allowed a single filing status,  
173 \$30,000;

174 (c) for a federal individual income tax return that is allowed a head of household filing  
175 status, \$45,000; or

176 (d) for a return under this chapter that is allowed a joint filing status, \$45,000.

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

180 Section 4. **Retrospective operation.**

181 This bill has retrospective operation for a taxable year beginning on or after January 1,

182 2020.