

GLOBAL INTANGIBLE LOW TAXED INCOME AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill modifies provisions related to payment of income tax on global intangible low-taxed income.

Highlighted Provisions:

This bill:

- ▶ creates a subtraction from unadjusted income of corporate taxpayers for global intangible low-taxed income;
- ▶ creates a subtraction from adjusted gross income of individual taxpayers for global intangible low-taxed income; and
- ▶ creates a subtraction from unadjusted income of estate and trust taxpayers for global intangible low-taxed income.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-7-106, as last amended by Laws of Utah 2019, Chapter 412

59-10-114, as last amended by Laws of Utah 2019, Chapter 412

59-10-202, as last amended by Laws of Utah 2019, Chapter 412



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

30 Section 1. Section **59-7-106** is amended to read:

31 **59-7-106. Subtractions from unadjusted income.**

32 (1) In computing adjusted income, the following amounts shall be subtracted from
33 unadjusted income:

34 (a) the foreign dividend gross-up included in gross income for federal income tax
35 purposes under Section 78, Internal Revenue Code;

36 (b) subject to Subsection (2), the net capital loss, as defined for federal purposes, if the
37 taxpayer elects to deduct the net capital loss on the return filed under this chapter for the
38 taxable year for which the net capital loss is incurred;

39 (c) the decrease in salary expense deduction for federal income tax purposes due to
40 claiming the federal work opportunity credit under Section 51, Internal Revenue Code;

41 (d) the decrease in qualified research and basic research expense deduction for federal
42 income tax purposes due to claiming the federal credit for increasing research activities under
43 Section 41, Internal Revenue Code;

44 (e) the decrease in qualified clinical testing expense deduction for federal income tax
45 purposes due to claiming the federal credit for clinical testing expenses for certain drugs for
46 rare diseases or conditions under Section 45C, Internal Revenue Code;

47 (f) any decrease in any expense deduction for federal income tax purposes due to
48 claiming any other federal credit;

49 (g) the safe harbor lease adjustment required under Subsections [59-7-111\(1\)\(b\)](#) and
50 [\(2\)\(b\)](#);

51 (h) any income on the federal corporation income tax return that has been previously
52 taxed by Utah;

53 (i) an amount included in federal taxable income that is due to a refund of a tax,
54 including a franchise tax, an income tax, a corporate stock and business tax, or an occupation
55 tax:

56 (i) if that tax is imposed for the privilege of:

57 (A) doing business; or

58 (B) exercising a corporate franchise;

- 59 (ii) if that tax is paid by the corporation to:
- 60 (A) Utah;
- 61 (B) another state of the United States;
- 62 (C) a foreign country;
- 63 (D) a United States possession; or
- 64 (E) the Commonwealth of Puerto Rico; and
- 65 (iii) to the extent that tax was added to unadjusted income under Section 59-7-105;
- 66 (j) a charitable contribution, to the extent the charitable contribution is allowed as a
- 67 subtraction under Section 59-7-109;
- 68 (k) subject to Subsection (3), 50% of a dividend considered to be received or received
- 69 from a subsidiary that:
- 70 (i) is a member of the unitary group;
- 71 (ii) is organized or incorporated outside of the United States; and
- 72 (iii) is not included in a combined report under Section 59-7-402 or 59-7-403;
- 73 (l) subject to Subsection (4) and Section 59-7-401, 50% of the adjusted income of a
- 74 foreign operating company;
- 75 (m) the amount of gain or loss that is included in unadjusted income but not recognized
- 76 for federal purposes on stock sold or exchanged by a member of a selling consolidated group as
- 77 defined in Section 338, Internal Revenue Code, if an election has been made in accordance
- 78 with Section 338(h)(10), Internal Revenue Code;
- 79 (n) the amount of gain or loss that is included in unadjusted income but not recognized
- 80 for federal purposes on stock sold, exchanged, or distributed by a corporation in accordance
- 81 with Section 336(e), Internal Revenue Code, if an election under Section 336(e), Internal
- 82 Revenue Code, has been made for federal purposes;
- 83 (o) subject to Subsection (5), an adjustment to the following due to a difference
- 84 between basis for federal purposes and basis as computed under Section 59-7-107:
- 85 (i) an amortization expense;
- 86 (ii) a depreciation expense;
- 87 (iii) a gain;
- 88 (iv) a loss; or
- 89 (v) an item similar to Subsections (1)(o)(i) through (iv);

90 (p) an interest expense that is not deducted on a federal corporation income tax return
91 under Section 265(b) or 291(e), Internal Revenue Code;

92 (q) 100% of dividends received from a subsidiary that is an insurance company if that
93 subsidiary that is an insurance company is:

94 (i) exempt from this chapter under Subsection 59-7-102(1)(c); and

95 (ii) under common ownership;

96 (r) subject to Subsection 59-7-105(10), for a corporation that is an account owner as
97 defined in Section 53B-8a-102, the amount of a qualified investment as defined in Section
98 53B-8a-102.5:

99 (i) that the corporation or a person other than the corporation makes into an account
100 owned by the corporation during the taxable year;

101 (ii) to the extent that neither the corporation nor the person other than the corporation
102 described in Subsection (1)(r)(i) deducts the qualified investment on a federal income tax
103 return; and

104 (iii) to the extent the qualified investment does not exceed the maximum amount of the
105 qualified investment that may be subtracted from unadjusted income for a taxable year in
106 accordance with Subsection 53B-8a-106(1);

107 (s) for a corporation that makes a donation, as that term is defined in Section
108 53B-8a-201, to the Student Prosperity Savings Program created in Section 53B-8a-202, the
109 amount of the donation to the extent that the corporation did not deduct the donation on a
110 federal income tax return;

111 (t) for purposes of income included in a combined report under Part 4, Combined
112 Reporting, the entire amount of the dividends a member of a unitary group receives or is
113 considered to receive from a captive real estate investment trust;

114 (u) the increase in income for federal income tax purposes due to claiming a:

115 (i) qualified tax credit bond credit under Section 54A, Internal Revenue Code; or

116 (ii) qualified zone academy bond under Section 1397E, Internal Revenue Code;

117 (v) for a taxable year beginning on or after January 1, 2019, but beginning on or before
118 December 31, 2019, only:

119 (i) the amount of any FDIC premium paid or incurred by the taxpayer that is
120 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal

121 Revenue Code, on the taxpayer's 2018 federal income tax return; plus

122 (ii) the amount of any FDIC premium paid or incurred by the taxpayer that is
123 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal
124 Revenue Code, for the taxable year; ~~and~~

125 (w) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC
126 premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income
127 tax purposes under Section 162(r), Internal Revenue Code, for the taxable year~~[-];~~ and

128 (x) the amount of global intangible low-taxed income described in Section 951A,
129 Internal Revenue Code, that is included in unadjusted income.

130 (2) For purposes of Subsection (1)(b):

131 (a) the subtraction shall be made by claiming the subtraction on a return filed:

132 (i) under this chapter for the taxable year for which the net capital loss is incurred; and

133 (ii) by the due date of the return, including extensions; and

134 (b) a net capital loss for a taxable year shall be:

135 (i) subtracted for the taxable year for which the net capital loss is incurred; or

136 (ii) carried forward as provided in Sections 1212(a)(1)(B) and (C), Internal Revenue

137 Code.

138 (3) (a) For purposes of the subtraction described in Subsection (1)(k), global intangible
139 low-taxed income described in Section 951A, Internal Revenue Code, is not a dividend
140 considered to be received or received.

141 ~~[(3)(a)]~~ (b) For purposes of calculating the subtraction ~~[provided for]~~ described in
142 Subsection (1)(k), a taxpayer shall first subtract from a dividend considered to be received or
143 received an expense directly attributable to that dividend.

144 ~~[(b)]~~ (c) For purposes of Subsection (3)~~[(a)]~~(b), the amount of an interest expense that
145 is considered to be directly attributable to a dividend is calculated by multiplying the interest
146 expense by a fraction:

147 (i) the numerator of which is the taxpayer's average investment in the dividend paying
148 subsidiaries; and

149 (ii) the denominator of which is the taxpayer's average total investment in assets.

150 ~~[(c)]~~ (d) (i) For purposes of calculating the subtraction allowed by Subsection (1)(k), in
151 determining income apportionable to this state, a portion of the factors of a foreign subsidiary

152 that has dividends that are partially subtracted under Subsection (1)(k) shall be included in the
153 combined report factors as provided in this Subsection (3)~~(c)~~(d).

154 (ii) For purposes of Subsection (3)~~(c)~~(d)(i), the portion of the factors of a foreign
155 subsidiary that has dividends that are partially subtracted under Subsection (1)(k) that shall be
156 included in the combined report factors is calculated by multiplying each factor of the foreign
157 subsidiary by a fraction:

158 (A) not to exceed 100%; and

159 (B) (I) the numerator of which is the amount of the dividend paid by the foreign
160 subsidiary that is included in adjusted income; and

161 (II) the denominator of which is the current year earnings and profits of the foreign
162 subsidiary as determined under the Internal Revenue Code.

163 (4) (a) For purposes of Subsection (1)(l), a taxpayer may not make a subtraction under
164 Subsection (1)(l):

165 (i) if the taxpayer elects to file a worldwide combined report as provided in Section
166 [59-7-403](#); or

167 (ii) for the following:

168 (A) income generated from intangible property; or

169 (B) a capital gain, dividend, interest, rent, royalty, or other similar item that is
170 generated from an asset held for investment and not from a regular business trading activity.

171 (b) In calculating the subtraction provided for in Subsection (1)(l), a foreign operating
172 company:

173 (i) may not subtract an amount provided for in Subsection (1)(k) or (l); and

174 (ii) prior to determining the subtraction under Subsection (1)(l), shall eliminate a
175 transaction that occurs between members of a unitary group.

176 (c) For purposes of the subtraction provided for in Subsection (1)(l), in determining
177 income apportionable to this state, the factors for a foreign operating company shall be
178 included in the combined report factors in the same percentages as the foreign operating
179 company's adjusted income is included in the combined adjusted income.

180 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
181 commission may by rule define what constitutes:

182 (i) income generated from intangible property; or

183 (ii) a capital gain, dividend, interest, rent, royalty, or other similar item that is
184 generated from an asset held for investment and not from a regular business trading activity.

185 (5) (a) For purposes of the subtraction provided for in Subsection (1)(o), the amount of
186 a reduction in basis shall be allowed as an expense for the taxable year in which a federal tax
187 credit is claimed if:

188 (i) there is a reduction in federal basis for a federal tax credit; and

189 (ii) there is no corresponding tax credit allowed in this state.

190 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
191 commission may by rule define what constitutes an item similar to Subsections (1)(o)(i)
192 through (iv).

193 Section 2. Section **59-10-114** is amended to read:

194 **59-10-114. Additions to and subtractions from adjusted gross income of an**
195 **individual.**

196 (1) There shall be added to adjusted gross income of a resident or nonresident
197 individual:

198 (a) a lump sum distribution that the taxpayer does not include in adjusted gross income
199 on the taxpayer's federal individual income tax return for the taxable year;

200 (b) the amount of a child's income calculated under Subsection (4) that:

201 (i) a parent elects to report on the parent's federal individual income tax return for the
202 taxable year; and

203 (ii) the parent does not include in adjusted gross income on the parent's federal
204 individual income tax return for the taxable year;

205 (c) (i) a withdrawal from a medical care savings account and any penalty imposed for
206 the taxable year if:

207 (A) the resident or nonresident individual does not deduct the amounts on the resident
208 or nonresident individual's federal individual income tax return under Section 220, Internal
209 Revenue Code;

210 (B) the withdrawal is subject to Subsections [31A-32a-105\(1\)](#) and (2); and

211 (C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a
212 return the resident or nonresident individual files under this chapter;

213 (ii) a disbursement required to be added to adjusted gross income in accordance with

214 Subsection 31A-32a-105(3); or

215 (iii) an amount required to be added to adjusted gross income in accordance with

216 Subsection 31A-32a-105(5)(c);

217 (d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan,
218 from the account of a resident or nonresident individual who is an account owner as defined in
219 Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount
220 withdrawn from the account of the resident or nonresident individual who is the account
221 owner:

222 (i) is not expended for:

223 (A) higher education costs as defined in Section 53B-8a-102.5; or

224 (B) a payment or distribution that qualifies as an exception to the additional tax for
225 distributions not used for educational expenses provided in Sections 529(c) and 530(d),
226 Internal Revenue Code; and

227 (ii) is:

228 (A) subtracted by the resident or nonresident individual:

229 (I) who is the account owner; and

230 (II) on the resident or nonresident individual's return filed under this chapter for a
231 taxable year beginning on or before December 31, 2007; or

232 (B) used as the basis for the resident or nonresident individual who is the account
233 owner to claim a tax credit under Section 59-10-1017;

234 (e) except as provided in Subsection (5), for bonds, notes, and other evidences of
235 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other
236 evidences of indebtedness:

237 (i) issued by one or more of the following entities:

238 (A) a state other than this state;

239 (B) the District of Columbia;

240 (C) a political subdivision of a state other than this state; or

241 (D) an agency or instrumentality of an entity described in Subsections (1)(e)(i)(A)
242 through (C); and

243 (ii) to the extent the interest is not included in adjusted gross income on the taxpayer's
244 federal income tax return for the taxable year;

245 (f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a
246 resident trust of income that was taxed at the trust level for federal tax purposes, but was
247 subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);

248 (g) any distribution received by a resident beneficiary of a nonresident trust of
249 undistributed distributable net income realized by the trust on or after January 1, 2004, if that
250 undistributed distributable net income was taxed at the trust level for federal tax purposes, but
251 was not taxed at the trust level by any state, with undistributed distributable net income
252 considered to be distributed from the most recently accumulated undistributed distributable net
253 income; and

254 (h) any adoption expense:

255 (i) for which a resident or nonresident individual receives reimbursement from another
256 person; and

257 (ii) to the extent to which the resident or nonresident individual subtracts that adoption
258 expense:

259 (A) on a return filed under this chapter for a taxable year beginning on or before
260 December 31, 2007; or

261 (B) from federal taxable income on a federal individual income tax return.

262 (2) There shall be subtracted from adjusted gross income of a resident or nonresident
263 individual:

264 (a) the difference between:

265 (i) the interest or a dividend on an obligation or security of the United States or an
266 authority, commission, instrumentality, or possession of the United States, to the extent that
267 interest or dividend is:

268 (A) included in adjusted gross income for federal income tax purposes for the taxable
269 year; and

270 (B) exempt from state income taxes under the laws of the United States; and

271 (ii) any interest on indebtedness incurred or continued to purchase or carry the
272 obligation or security described in Subsection (2)(a)(i);

273 (b) for taxable years beginning on or after January 1, 2000, if the conditions of
274 Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:

275 (i) during a time period that the Ute tribal member resides on homesteaded land

276 diminished from the Uintah and Ouray Reservation; and
277 (ii) from a source within the Uintah and Ouray Reservation;
278 (c) an amount received by a resident or nonresident individual or distribution received
279 by a resident or nonresident beneficiary of a resident trust:
280 (i) if that amount or distribution constitutes a refund of taxes imposed by:
281 (A) a state; or
282 (B) the District of Columbia; and
283 (ii) to the extent that amount or distribution is included in adjusted gross income for
284 that taxable year on the federal individual income tax return of the resident or nonresident
285 individual or resident or nonresident beneficiary of a resident trust;
286 (d) the amount of a railroad retirement benefit:
287 (i) paid:
288 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et
289 seq.;
290 (B) to a resident or nonresident individual; and
291 (C) for the taxable year; and
292 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on
293 that resident or nonresident individual's federal individual income tax return for that taxable
294 year;
295 (e) an amount:
296 (i) received by an enrolled member of an American Indian tribe; and
297 (ii) to the extent that the state is not authorized or permitted to impose a tax under this
298 part on that amount in accordance with:
299 (A) federal law;
300 (B) a treaty; or
301 (C) a final decision issued by a court of competent jurisdiction;
302 (f) an amount received:
303 (i) for the interest on a bond, note, or other obligation issued by an entity for which
304 state statute provides an exemption of interest on its bonds from state individual income tax;
305 (ii) by a resident or nonresident individual;
306 (iii) for the taxable year; and

- 307 (iv) to the extent the amount is included in adjusted gross income on the taxpayer's
308 federal income tax return for the taxable year;
- 309 (g) the amount of all income, including income apportioned to another state, of a
310 nonmilitary spouse of an active duty military member if:
- 311 (i) both the nonmilitary spouse and the active duty military member are nonresident
312 individuals;
- 313 (ii) the active duty military member is stationed in Utah;
- 314 (iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec.
315 4001(a)(2); and
- 316 (iv) the income is included in adjusted gross income for federal income tax purposes
317 for the taxable year;
- 318 (h) for a taxable year beginning on or after January 1, 2019, but beginning on or before
319 December 31, 2019, only:
- 320 (i) the amount of any FDIC premium paid or incurred by the taxpayer that is
321 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal
322 Revenue Code, on the taxpayer's 2018 federal income tax return; plus
- 323 (ii) the amount of any FDIC premium paid or incurred by the taxpayer that is
324 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal
325 Revenue Code, for the taxable year; [~~and~~]
- 326 (i) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC
327 premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income
328 tax purposes under Section 162(r), Internal Revenue Code, for the taxable year[-]; and
- 329 (j) the amount of global intangible low-taxed income described in Section 951A,
330 Internal Revenue Code, that is included in adjusted gross income.
- 331 (3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:
- 332 (i) the taxpayer is a Ute tribal member; and
- 333 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the
334 requirements of this Subsection (3).
- 335 (b) The agreement described in Subsection (3)(a):
- 336 (i) may not:
- 337 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

338 (B) provide a subtraction under this section greater than or different from the
339 subtraction described in Subsection (2)(b); or
340 (C) affect the power of the state to establish rates of taxation; and
341 (ii) shall:
342 (A) provide for the implementation of the subtraction described in Subsection (2)(b);
343 (B) be in writing;
344 (C) be signed by:
345 (I) the governor; and
346 (II) the chair of the Business Committee of the Ute tribe;
347 (D) be conditioned on obtaining any approval required by federal law; and
348 (E) state the effective date of the agreement.
349 (c) (i) The governor shall report to the commission by no later than February 1 of each
350 year regarding whether or not an agreement meeting the requirements of this Subsection (3) is
351 in effect.
352 (ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the
353 subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or
354 after the January 1 following the termination of the agreement.
355 (d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3,
356 Utah Administrative Rulemaking Act, the commission may make rules:
357 (i) for determining whether income is derived from a source within the Uintah and
358 Ouray Reservation; and
359 (ii) that are substantially similar to how adjusted gross income derived from Utah
360 sources is determined under Section [59-10-117](#).
361 (4) (a) For purposes of this Subsection (4), "Form 8814" means:
362 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's
363 Interest and Dividends; or
364 (ii) (A) a form designated by the commission in accordance with Subsection
365 (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal
366 individual income taxes the information contained on 2000 Form 8814 is reported on a form
367 other than Form 8814; and
368 (B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter

369 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as
370 being substantially similar to 2000 Form 8814 if for purposes of federal individual income
371 taxes the information contained on 2000 Form 8814 is reported on a form other than Form
372 8814.

373 (b) The amount of a child's income added to adjusted gross income under Subsection
374 (1)(b) is equal to the difference between:

375 (i) the lesser of:

376 (A) the base amount specified on Form 8814; and

377 (B) the sum of the following reported on Form 8814:

378 (I) the child's taxable interest;

379 (II) the child's ordinary dividends; and

380 (III) the child's capital gain distributions; and

381 (ii) the amount not taxed that is specified on Form 8814.

382 (5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences
383 of indebtedness issued by an entity described in Subsections (1)(e)(i)(A) through (D) may not
384 be added to adjusted gross income of a resident or nonresident individual if, as annually
385 determined by the commission:

386 (a) for an entity described in Subsection (1)(e)(i)(A) or (B), the entity and all of the
387 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on
388 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

389 (b) for an entity described in Subsection (1)(e)(i)(C) or (D), the following do not
390 impose a tax based on income on any part of the bonds, notes, and other evidences of
391 indebtedness of this state:

392 (i) the entity; or

393 (ii) (A) the state in which the entity is located; or

394 (B) the District of Columbia, if the entity is located within the District of Columbia.

395 Section 3. Section **59-10-202** is amended to read:

396 **59-10-202. Additions to and subtractions from unadjusted income of a resident or**
397 **nonresident estate or trust.**

398 (1) There shall be added to unadjusted income of a resident or nonresident estate or
399 trust:

400 (a) a lump sum distribution allowable as a deduction under Section 402(d)(3), Internal
401 Revenue Code, to the extent deductible under Section 62(a)(8), Internal Revenue Code, in
402 determining adjusted gross income;

403 (b) except as provided in Subsection (3), for bonds, notes, and other evidences of
404 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other
405 evidences of indebtedness:

406 (i) issued by one or more of the following entities:

407 (A) a state other than this state;

408 (B) the District of Columbia;

409 (C) a political subdivision of a state other than this state; or

410 (D) an agency or instrumentality of an entity described in Subsections (1)(b)(i)(A)
411 through (C); and

412 (ii) to the extent the interest is not included in federal taxable income on the taxpayer's
413 federal income tax return for the taxable year;

414 (c) any portion of federal taxable income for a taxable year if that federal taxable
415 income is derived from stock:

416 (i) in an S corporation; and

417 (ii) that is held by an electing small business trust;

418 (d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan,
419 from the account of a resident or nonresident estate or trust that is an account owner as defined
420 in Section [53B-8a-102](#), for the taxable year for which the amount is withdrawn, if that amount
421 withdrawn from the account of the resident or nonresident estate or trust that is the account
422 owner:

423 (i) is not expended for:

424 (A) higher education costs as defined in Section [53B-8a-102.5](#); or

425 (B) a payment or distribution that qualifies as an exception to the additional tax for
426 distributions not used for educational expenses provided in Sections 529(c) and 530(d),
427 Internal Revenue Code; and

428 (ii) is:

429 (A) subtracted by the resident or nonresident estate or trust:

430 (I) that is the account owner; and

431 (II) on the resident or nonresident estate's or trust's return filed under this chapter for a
432 taxable year beginning on or before December 31, 2007; or

433 (B) used as the basis for the resident or nonresident estate or trust that is the account
434 owner to claim a tax credit under Section 59-10-1017; and

435 (e) any fiduciary adjustments required by Section 59-10-210.

436 (2) There shall be subtracted from unadjusted income of a resident or nonresident
437 estate or trust:

438 (a) the interest or a dividend on obligations or securities of the United States and its
439 possessions or of any authority, commission, or instrumentality of the United States, to the
440 extent that interest or dividend is included in gross income for federal income tax purposes for
441 the taxable year but exempt from state income taxes under the laws of the United States, but
442 the amount subtracted under this Subsection (2) shall be reduced by any interest on
443 indebtedness incurred or continued to purchase or carry the obligations or securities described
444 in this Subsection (2), and by any expenses incurred in the production of interest or dividend
445 income described in this Subsection (2) to the extent that such expenses, including amortizable
446 bond premiums, are deductible in determining federal taxable income;

447 (b) income of an irrevocable resident trust if:

448 (i) the income would not be treated as state taxable income derived from Utah sources
449 under Section 59-10-204 if received by a nonresident trust;

450 (ii) the trust first became a resident trust on or after January 1, 2004;

451 (iii) no assets of the trust were held, at any time after January 1, 2003, in another
452 resident irrevocable trust created by the same settlor or the spouse of the same settlor;

453 (iv) the trustee of the trust is a trust company as defined in Subsection 7-5-1(1)(d);

454 (v) the amount subtracted under this Subsection (2)(b) is reduced to the extent the
455 settlor or any other person is treated as an owner of any portion of the trust under Subtitle A,
456 Subchapter J, Subpart E of the Internal Revenue Code; and

457 (vi) the amount subtracted under this Subsection (2)(b) is reduced by any interest on
458 indebtedness incurred or continued to purchase or carry the assets generating the income
459 described in this Subsection (2)(b), and by any expenses incurred in the production of income
460 described in this Subsection (2)(b), to the extent that those expenses, including amortizable
461 bond premiums, are deductible in determining federal taxable income;

462 (c) if the conditions of Subsection (4)(a) are met, the amount of income of a resident or
463 nonresident estate or trust derived from a deceased Ute tribal member:

464 (i) during a time period that the Ute tribal member resided on homesteaded land
465 diminished from the Uintah and Ouray Reservation; and

466 (ii) from a source within the Uintah and Ouray Reservation;

467 (d) any amount:

468 (i) received by a resident or nonresident estate or trust;

469 (ii) that constitutes a refund of taxes imposed by:

470 (A) a state; or

471 (B) the District of Columbia; and

472 (iii) to the extent that amount is included in total income on that resident or nonresident
473 estate's or trust's federal tax return for estates and trusts for that taxable year;

474 (e) the amount of a railroad retirement benefit:

475 (i) paid:

476 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et
477 seq.;

478 (B) to a resident or nonresident estate or trust derived from a deceased resident or
479 nonresident individual; and

480 (C) for the taxable year; and

481 (ii) to the extent that railroad retirement benefit is included in total income on that
482 resident or nonresident estate's or trust's federal tax return for estates and trusts;

483 (f) an amount:

484 (i) received by a resident or nonresident estate or trust if that amount is derived from a
485 deceased enrolled member of an American Indian tribe; and

486 (ii) to the extent that the state is not authorized or permitted to impose a tax under this
487 part on that amount in accordance with:

488 (A) federal law;

489 (B) a treaty; or

490 (C) a final decision issued by a court of competent jurisdiction;

491 (g) the amount that a qualified nongrantor charitable lead trust deducts under Section
492 642(c), Internal Revenue Code, as a charitable contribution deduction, as allowed on the

493 qualified nongrantor charitable lead trust's federal income tax return for estates and trusts for
494 the taxable year;

495 (h) any fiduciary adjustments required by Section 59-10-210;

496 (i) an amount received:

497 (i) for the interest on a bond, note, or other obligation issued by an entity for which
498 state statute provides an exemption of interest on its bonds from state individual income tax;

499 (ii) by a resident or nonresident estate or trust;

500 (iii) for the taxable year; and

501 (iv) to the extent the amount is included in federal taxable income on the taxpayer's
502 federal income tax return for the taxable year;

503 (j) for a taxable year beginning on or after January 1, 2019, but beginning on or before
504 December 31, 2019, only:

505 (i) the amount of any FDIC premium paid or incurred by the resident or nonresident
506 estate or trust that is disallowed as a deduction for federal income tax purposes under Section
507 162(r), Internal Revenue Code, on the resident's or nonresident estate's or trust's 2018 federal
508 income tax return; plus

509 (ii) the amount of any FDIC premium paid or incurred by the resident or nonresident
510 estate or trust that is disallowed as a deduction for federal income tax purposes under Section
511 162(r), Internal Revenue Code, for the taxable year; ~~and~~

512 (k) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC
513 premium paid or incurred by the resident or nonresident estate or trust that is disallowed as a
514 deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the
515 taxable year~~[-]; and~~

516 (l) the amount of global intangible low-taxed income described in Section 951A,
517 Internal Revenue Code, that is included in unadjusted income.

518 (3) Notwithstanding Subsection (1)(b), interest from bonds, notes, and other evidences
519 of indebtedness issued by an entity described in Subsections (1)(b)(i)(A) through (D) may not
520 be added to unadjusted income of a resident or nonresident estate or trust if, as annually
521 determined by the commission:

522 (a) for an entity described in Subsection (1)(b)(i)(A) or (B), the entity and all of the
523 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on

524 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

525 (b) for an entity described in Subsection (1)(b)(i)(C) or (D), the following do not

526 impose a tax based on income on any part of the bonds, notes, and other evidences of

527 indebtedness of this state:

528 (i) the entity; or

529 (ii) (A) the state in which the entity is located; or

530 (B) the District of Columbia, if the entity is located within the District of Columbia.

531 (4) (a) A subtraction for an amount described in Subsection (2)(c) is allowed only if:

532 (i) the income is derived from a deceased Ute tribal member; and

533 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the

534 requirements of this Subsection (4).

535 (b) The agreement described in Subsection (4)(a):

536 (i) may not:

537 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

538 (B) provide a subtraction under this section greater than or different from the

539 subtraction described in Subsection (2)(c); or

540 (C) affect the power of the state to establish rates of taxation; and

541 (ii) shall:

542 (A) provide for the implementation of the subtraction described in Subsection (2)(c);

543 (B) be in writing;

544 (C) be signed by:

545 (I) the governor; and

546 (II) the chair of the Business Committee of the Ute tribe;

547 (D) be conditioned on obtaining any approval required by federal law; and

548 (E) state the effective date of the agreement.

549 (c) (i) The governor shall report to the commission by no later than February 1 of each

550 year regarding whether or not an agreement meeting the requirements of this Subsection (4) is

551 in effect.

552 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the

553 subtraction permitted under Subsection (2)(c) is not allowed for taxable years beginning on or

554 after the January 1 following the termination of the agreement.

555 (d) For purposes of Subsection (2)(c) and in accordance with Title 63G, Chapter 3,
556 Utah Administrative Rulemaking Act, the commission may make rules:

557 (i) for determining whether income is derived from a source within the Uintah and
558 Ouray Reservation; and

559 (ii) that are substantially similar to how adjusted gross income derived from Utah
560 sources is determined under Section [59-10-117](#).

561 Section 4. **Retrospective operation.**

562 This bill has retrospective operation for a taxable year beginning on or after January 1,
563 2020.