

Representative Steve Eliason proposes the following substitute bill:

INCOME TAX REVISIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill amends provisions of the Individual Income Tax Act.

Highlighted Provisions:

This bill:

- ▶ modifies the due date for an installment payment of the tax on deferred foreign income;
- ▶ defines terms;
- ▶ modifies the date for a corporation or a pass-through entity to file an income tax return;
- ▶ modifies the State Tax Commission's authority to extend the time for paying an income tax;
- ▶ clarifies when an individual taxpayer may receive an income tax extension without penalty;
- ▶ creates a new subtraction from adjusted gross income for certain distributions from a qualified retirement plan; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 This bill provides retrospective operation.

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **59-7-118**, as last amended by Laws of Utah 2019, Chapter 11

31 **59-7-505**, as last amended by Laws of Utah 1997, Chapter 332

32 **59-7-507**, as last amended by Laws of Utah 2007, Chapter 269

33 **59-10-103**, as last amended by Laws of Utah 2019, Chapter 323

34 **59-10-114**, as last amended by Laws of Utah 2019, Chapter 412

35 **59-10-507**, as last amended by Laws of Utah 2016, Chapter 87

36 **59-10-514**, as last amended by Laws of Utah 2016, Chapter 87

37 **59-10-516**, as last amended by Laws of Utah 2010, Chapter 271

38 **59-10-522**, as renumbered and amended by Laws of Utah 1987, Chapter 2

39 **59-10-1403**, as last amended by Laws of Utah 2017, Chapter 270

40

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

42 Section 1. Section **59-7-118** is amended to read:

43 **59-7-118. Section 965, Internal Revenue Code -- Installment payments.**

44 (1) Subject to the other provisions of this section, a corporation may pay in
45 installments the tax owed under this chapter on deferred foreign income described in Section
46 965, Internal Revenue Code.

47 (2) Subsection (1) applies:

48 (a) to a corporation that:

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

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

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

54 (3) (a) Except as provided in Subsection (3)(b), the same provisions that apply to an
55 election made under Section 965(h), Internal Revenue Code, for federal purposes apply to an
56 installment payment made under this section.

57 (b) A corporation shall make:

58 (i) the first installment under this section on or before the due date~~[, including any~~
59 ~~extension,]~~ of the tax return filed under this chapter for the first taxable year in which the
60 corporation reports deferred foreign income described in Section 965, Internal Revenue Code;
61 and

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

64 Section 2. Section **59-7-505** is amended to read:

65 **59-7-505. Returns required -- When due -- Extension of time -- Exemption from**
66 **filing.**

67 (1) Each corporation subject to taxation under this chapter shall make a return, except
68 that a group of corporations filing a combined report under Part 4, Combined Reporting, shall
69 file one combined report.

70 (a) The return shall be signed by a responsible officer of the corporation, the signature
71 of whom need not be notarized but when signed shall be considered as made under oath.

72 (b) (i) In cases where receivers, trustees in bankruptcy, or assignees are operating the
73 property or business of corporations, those receivers, trustees, or assignees shall make returns
74 for such corporations in the same manner and form as corporations are required to make
75 returns.

76 (ii) Any tax due on the basis of such returns made by receivers, trustees, or assignees
77 shall be collected in the same manner as if collected from the corporations of whose business
78 or property they have custody and control.

79 (2) Returns shall be made on or before the later of:

80 (a) the 15th day of the fourth month following the close of the taxable year[-]; or

81 (b) the day on which a corporation required to make a return under this chapter is
82 required to file a federal income tax return.

83 (3) (a) The commission shall allow a taxpayer an extension of time for filing returns.

84 (b) The extension under Subsection (3)(a) may not exceed six months.

85 (4) Each return shall be made to the commission.

86 (5) A corporation incorporated or qualified to do business in this state prior to January
87 1, 1973, is not liable for filing a return or paying tax measured by income for the taxable year

88 in which [it] the corporation legally terminates its existence.

89 (6) A corporation incorporated or qualified to do business or which had its authority to
90 do business reinstated on or after January 1, 1973, shall file a return and pay the tax measured
91 by income for each period during which it had the right to do business in this state, and the
92 return shall be filed and the tax paid within three months and 15 days after the close of this
93 period.

94 (7) If a corporation terminates its existence under Section 16-10a-1401, no returns are
95 required to be filed if a statement is furnished to the commission that no business has been
96 conducted during that period.

97 (8) (a) A corporation commencing to do business in Utah after qualification or
98 incorporation with the Division of Corporations and Commercial Code is not required to file a
99 return for the period commencing with the date of incorporation or qualification and ending on
100 the last day of the same month, if that corporation was not doing business in and received no
101 income from sources in the state during such period.

102 (b) In determining whether a corporation comes within the provisions of this chapter,
103 affidavits on behalf of the corporation that it did no business in and received no income from
104 sources in Utah during such period shall be filed with the commission.

105 Section 3. Section 59-7-507 is amended to read:

106 **59-7-507. Payment of tax.**

107 (1) (a) If quarterly estimated payments are not made as provided in Section 59-7-504,
108 the amount of tax imposed by this chapter shall be paid no later than the original due date of
109 the return.

110 (b) If an extension of time is necessary for filing a return, as provided in Subsection
111 59-7-505(3) or Section 59-7-803, payment must be made no later than the original due date of
112 the return in an amount equal to the lesser of:

113 (i) The greater of:

114 (A) 90% of the total tax reported on the return for the current taxable year; or

115 (B) 100% of the minimum tax described in Section 59-7-104; or

116 (ii) 100% of the total tax liability for the taxable year immediately preceding the
117 current taxable year.

118 (c) If payment is not made as provided in Subsection (1)(b), the commission shall add

119 an extension penalty as provided in Section 59-1-401, until the tax is paid during the period of
120 extension.

121 (2) (a) ~~[At the request of the taxpayer, the]~~ The commission may extend the time for
122 payment of the amount determined as the tax by the taxpayer, or any part of that amount, for a
123 period not to exceed six months from the date prescribed for the payment of the tax.

124 (b) For purposes of Subsection (2)(a), the amount ~~[in respect of]~~ for which the
125 extension is granted shall be paid on or before the date of the expiration of the period of the
126 extension.

127 Section 4. Section 59-10-103 is amended to read:

128 **59-10-103. Definitions.**

129 (1) As used in this chapter:

130 (a) "Adjusted gross income":

131 (i) for a resident or nonresident individual, is as defined in Section 62, Internal
132 Revenue Code; or

133 (ii) for a resident or nonresident estate or trust, is as calculated in Section 67(e),
134 Internal Revenue Code.

135 (b) "Corporation" includes:

136 (i) an association;

137 (ii) a joint stock company; and

138 (iii) an insurance company.

139 (c) "Distributable net income" is as defined in Section 643, Internal Revenue Code.

140 (d) "Employee" is as defined in Section 59-10-401.

141 (e) "Employer" is as defined in Section 59-10-401.

142 (f) "Federal taxable income":

143 (i) for a resident or nonresident individual, means taxable income as defined by Section
144 63, Internal Revenue Code; or

145 (ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and
146 (b), Internal Revenue Code.

147 (g) "Fiduciary" means:

148 (i) a guardian;

149 (ii) a trustee;

- 150 (iii) an executor;
- 151 (iv) an administrator;
- 152 (v) a receiver;
- 153 (vi) a conservator; or
- 154 (vii) any person acting in any fiduciary capacity for any individual.
- 155 (h) "Guaranteed annuity interest" is as defined in 26 C.F.R. Sec. 1.170A-6(c)(2).
- 156 (i) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the
- 157 homesteaded land that was held to have been diminished from the Uintah and Ouray
- 158 Reservation in Hagen v. Utah, 510 U.S. 399 (1994).
- 159 (j) "Individual" means a natural person and includes aliens and minors.
- 160 (k) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate
- 161 all or part of the trust without the consent of a person who has a substantial beneficial interest
- 162 in the trust and the interest would be adversely affected by the exercise of the settlor's power to
- 163 revoke or terminate all or part of the trust.
- 164 (l) "Military service" is as defined in Pub. L. No. 108-189, Sec. 101.
- 165 (m) "Nonresident individual" means an individual who is not a resident of this state.
- 166 (n) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a
- 167 resident estate or trust.
- 168 (o) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other
- 169 unincorporated organization:
- 170 (A) through or by means of which any business, financial operation, or venture is
- 171 carried on; and
- 172 (B) which is not, within the meaning of this chapter:
- 173 (I) a trust;
- 174 (II) an estate; or
- 175 (III) a corporation.
- 176 (ii) "Partnership" does not include any organization not included under the definition of
- 177 "partnership" in Section 761, Internal Revenue Code.
- 178 (iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or
- 179 organization described in Subsection (1)(o)(i).
- 180 (p) "Pass-through entity" means the same as that term is defined in Section

181 [59-10-1402.](#)

182 (q) "Pass-through entity taxpayer" means the same as that term is defined in Section

183 [59-10-1402.](#)

184 [~~(p)~~] (r) "Qualified nongrantor charitable lead trust" means a trust:

185 (i) that is irrevocable;

186 (ii) that has a trust term measured by:

187 (A) a fixed term of years; or

188 (B) the life of a person living on the day on which the trust is created;

189 (iii) under which:

190 (A) a portion of the value of the trust assets is distributed during the trust term:

191 (I) to an organization described in Section 170(c), Internal Revenue Code; and

192 (II) as a:

193 (Aa) guaranteed annuity interest; or

194 (Bb) unitrust interest; and

195 (B) assets remaining in the trust at the termination of the trust term are distributed to a

196 beneficiary:

197 (I) designated in the trust; and

198 (II) that is not an organization described in Section 170(c), Internal Revenue Code;

199 (iv) for which the trust is allowed a deduction under Section 642(c), Internal Revenue

200 Code; and

201 (v) under which the grantor of the trust is not treated as the owner of any portion of the

202 trust for federal income tax purposes.

203 [~~(q)~~] (s) "Resident individual" means an individual who is domiciled in this state for

204 any period of time during the taxable year, but only for the duration of the period during which

205 the individual is domiciled in this state.

206 [~~(r)~~] (t) "Resident estate" or "resident trust" is as defined in Section [75-7-103](#).

207 [~~(s)~~] (u) "Servicemember" is as defined in Pub. L. No. 108-189, Sec. 101.

208 [~~(t)~~] (v) "State income tax percentage for a nonresident estate or trust" means a

209 percentage equal to a nonresident estate's or trust's state taxable income for the taxable year

210 divided by the nonresident estate's or trust's total adjusted gross income for that taxable year

211 after making the adjustments required by:

212 (i) Section 59-10-202;
213 (ii) Section 59-10-207;
214 (iii) Section 59-10-209.1; or
215 (iv) Section 59-10-210.
216 ~~(t)~~ (w) "State income tax percentage for a nonresident individual" means a
217 percentage equal to a nonresident individual's state taxable income for the taxable year divided
218 by the difference between:

219 (i) subject to Section 59-10-1405, the nonresident individual's total adjusted gross
220 income for that taxable year, after making the:

- 221 (A) additions and subtractions required by Section 59-10-114; and
- 222 (B) adjustments required by Section 59-10-115; and

223 (ii) if the nonresident individual described in Subsection ~~(t)(i)~~ (1)(w)(i) is a
224 servicemember, the compensation the servicemember receives for military service if the
225 servicemember is serving in compliance with military orders.

226 ~~(v)~~ (x) "State income tax percentage for a part-year resident individual" means, for a
227 taxable year, a fraction:

228 (i) the numerator of which is the sum of:

229 (A) subject to Section 59-10-1404.5, for the time period during the taxable year that the
230 part-year resident individual is a resident, the part-year resident individual's total adjusted gross
231 income for that time period, after making the:

- 232 (I) additions and subtractions required by Section 59-10-114; and
- 233 (II) adjustments required by Section 59-10-115; and

234 (B) for the time period during the taxable year that the part-year resident individual is a
235 nonresident, an amount calculated by:

236 (I) determining the part-year resident individual's adjusted gross income for that time
237 period, after making the:

- 238 (Aa) additions and subtractions required by Section 59-10-114; and
- 239 (Bb) adjustments required by Section 59-10-115; and

240 (II) calculating the portion of the amount determined under Subsection ~~(t)(v)(i)(B)(t)~~
241 ~~(1)(x)(i)(B)(I)~~ that is derived from Utah sources in accordance with Section 59-10-117; and

242 (ii) the denominator of which is the difference between:

243 (A) the part-year resident individual's total adjusted gross income for that taxable year,
244 after making the:

245 (I) additions and subtractions required by Section 59-10-114; and

246 (II) adjustments required by Section 59-10-115; and

247 (B) if the part-year resident individual is a servicemember, any compensation the
248 servicemember receives for military service during the portion of the taxable year that the
249 servicemember is a nonresident if the servicemember is serving in compliance with military
250 orders.

251 ~~[(w)]~~ (y) "Taxable income" or "state taxable income":

252 (i) subject to Section 59-10-1404.5, for a resident individual, means the resident
253 individual's adjusted gross income after making the:

254 (A) additions and subtractions required by Section 59-10-114; and

255 (B) adjustments required by Section 59-10-115;

256 (ii) for a nonresident individual, is an amount calculated by:

257 (A) determining the nonresident individual's adjusted gross income for the taxable
258 year, after making the:

259 (I) additions and subtractions required by Section 59-10-114; and

260 (II) adjustments required by Section 59-10-115; and

261 (B) calculating the portion of the amount determined under Subsection ~~[(1)(w)(ii)(A)]~~
262 (1)(y)(ii)(A) that is derived from Utah sources in accordance with Section 59-10-117;

263 (iii) for a resident estate or trust, is as calculated under Section 59-10-201.1; and

264 (iv) for a nonresident estate or trust, is as calculated under Section 59-10-204.

265 ~~[(x)]~~ (z) "Taxpayer" means any ~~[individual, estate, trust, or beneficiary of an estate or~~
266 ~~trust,]~~ of the following that has income subject in whole or part to the tax imposed by this
267 chapter[-]:

268 (i) an individual;

269 (ii) an estate, a trust, or a beneficiary of an estate or trust, that is not a pass-through
270 entity or a pass-through entity taxpayer;

271 (iii) a pass-through entity; or

272 (iv) pass-through entity taxpayer.

273 ~~[(y)]~~ (aa) "Trust term" means a time period:

274 (i) beginning on the day on which a qualified nongrantor charitable lead trust is
275 created; and
276 (ii) ending on the day on which the qualified nongrantor charitable lead trust described
277 in Subsection ~~[(1)(y)(i)]~~ (1)(aa)(i) terminates.
278 ~~[(z)]~~ (bb) "Uintah and Ouray Reservation" means the lands recognized as being
279 included within the Uintah and Ouray Reservation in:
280 (i) Hagen v. Utah, 510 U.S. 399 (1994); and
281 (ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).
282 ~~[(aa)]~~ (cc) "Unadjusted income" means an amount equal to the difference between:
283 (i) the total income required to be reported by a resident or nonresident estate or trust
284 on the resident or nonresident estate's or trust's federal income tax return for estates and trusts
285 for the taxable year; and
286 (ii) the sum of the following:
287 (A) fees paid or incurred to the fiduciary of a resident or nonresident estate or trust:
288 (I) for administering the resident or nonresident estate or trust; and
289 (II) that the resident or nonresident estate or trust deducts as allowed on the resident or
290 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable
291 year;
292 (B) the income distribution deduction that a resident or nonresident estate or trust
293 deducts under Section 651 or 661, Internal Revenue Code, as allowed on the resident or
294 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable
295 year;
296 (C) the amount that a resident or nonresident estate or trust deducts as a deduction for
297 estate tax or generation skipping transfer tax under Section 691(c), Internal Revenue Code, as
298 allowed on the resident or nonresident estate's or trust's federal income tax return for estates
299 and trusts for the taxable year; and
300 (D) the amount that a resident or nonresident estate or trust deducts as a personal
301 exemption under Section 642(b), Internal Revenue Code, as allowed on the resident or
302 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable
303 year.
304 ~~[(bb)]~~ (dd) "Unitrust interest" is as defined in 26 C.F.R. Sec. 1.170A-6(c)(2).

305 [~~(ee)~~] (ee) "Ute tribal member" means a person who is enrolled as a member of the Ute
306 Indian Tribe of the Uintah and Ouray Reservation.

307 [~~(dd)~~] (ff) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

308 [~~(ee)~~] (gg) "Wages" is as defined in Section [59-10-401](#).

309 (2) (a) Any term used in this chapter has the same meaning as when used in
310 comparable context in the laws of the United States relating to federal income taxes unless a
311 different meaning is clearly required.

312 (b) Any reference to the Internal Revenue Code or to the laws of the United States shall
313 mean the Internal Revenue Code or other provisions of the laws of the United States relating to
314 federal income taxes that are in effect for the taxable year.

315 (c) Any reference to a specific section of the Internal Revenue Code or other provision
316 of the laws of the United States relating to federal income taxes shall include any
317 corresponding or comparable provisions of the Internal Revenue Code as amended,
318 redesignated, or reenacted.

319 Section 5. Section **59-10-114** is amended to read:

320 **59-10-114. Additions to and subtractions from adjusted gross income of an**
321 **individual.**

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

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

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

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

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

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

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

336 (B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and
337 (C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a
338 return the resident or nonresident individual files under this chapter;
339 (ii) a disbursement required to be added to adjusted gross income in accordance with
340 Subsection 31A-32a-105(3); or
341 (iii) an amount required to be added to adjusted gross income in accordance with
342 Subsection 31A-32a-105(5)(c);
343 (d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan,
344 from the account of a resident or nonresident individual who is an account owner as defined in
345 Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount
346 withdrawn from the account of the resident or nonresident individual who is the account
347 owner:
348 (i) is not expended for:
349 (A) higher education costs as defined in Section 53B-8a-102.5; or
350 (B) a payment or distribution that qualifies as an exception to the additional tax for
351 distributions not used for educational expenses provided in Sections 529(c) and 530(d),
352 Internal Revenue Code; and
353 (ii) is:
354 (A) subtracted by the resident or nonresident individual:
355 (I) who is the account owner; and
356 (II) on the resident or nonresident individual's return filed under this chapter for a
357 taxable year beginning on or before December 31, 2007; or
358 (B) used as the basis for the resident or nonresident individual who is the account
359 owner to claim a tax credit under Section 59-10-1017;
360 (e) except as provided in Subsection (5), for bonds, notes, and other evidences of
361 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other
362 evidences of indebtedness:
363 (i) issued by one or more of the following entities:
364 (A) a state other than this state;
365 (B) the District of Columbia;
366 (C) a political subdivision of a state other than this state; or

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

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

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

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

380 (h) any adoption expense:

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

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

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

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

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

390 (a) the difference between:

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

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

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

397 (ii) any interest on indebtedness incurred or continued to purchase or carry the

398 obligation or security described in Subsection (2)(a)(i);

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

401 (i) during a time period that the Ute tribal member resides on homesteaded land
402 diminished from the Uintah and Ouray Reservation; and

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

404 (c) an amount received by a resident or nonresident individual or distribution received
405 by a resident or nonresident beneficiary of a resident trust:

406 (i) if that amount or distribution constitutes a refund of taxes imposed by:

407 (A) a state; or

408 (B) the District of Columbia; and

409 (ii) to the extent that amount or distribution is included in adjusted gross income for
410 that taxable year on the federal individual income tax return of the resident or nonresident
411 individual or resident or nonresident beneficiary of a resident trust;

412 (d) the amount of a railroad retirement benefit:

413 (i) paid:

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

416 (B) to a resident or nonresident individual; and

417 (C) for the taxable year; and

418 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on
419 that resident or nonresident individual's federal individual income tax return for that taxable
420 year;

421 (e) an amount:

422 (i) received by an enrolled member of an American Indian tribe; and

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

425 (A) federal law;

426 (B) a treaty; or

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

428 (f) an amount received:

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

431 (ii) by a resident or nonresident individual;

432 (iii) for the taxable year; and

433 (iv) to the extent the amount is included in adjusted gross income on the taxpayer's
434 federal income tax return for the taxable year;

435 (g) the amount of all income, including income apportioned to another state, of a
436 nonmilitary spouse of an active duty military member if:

437 (i) both the nonmilitary spouse and the active duty military member are nonresident
438 individuals;

439 (ii) the active duty military member is stationed in Utah;

440 (iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec.
441 4001(a)(2); and

442 (iv) the income is included in adjusted gross income for federal income tax purposes
443 for the taxable year;

444 (h) for a taxable year beginning on or after January 1, 2019, but beginning on or before
445 December 31, 2019, only:

446 (i) the amount of any FDIC premium paid or incurred by the taxpayer that is
447 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal
448 Revenue Code, on the taxpayer's 2018 federal income tax return; plus

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

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

455 (j) an amount of a distribution from a qualified retirement plan under Section 401(a),
456 Internal Revenue Code, if:

457 (i) the amount of the distribution is included in adjusted gross income on the resident
458 or nonresident individual's federal individual income tax return for the taxable year; and

459 (ii) for the taxable year when the amount of the distribution was contributed to the

460 qualified retirement plan, the amount of the distribution:

461 (A) was not included in adjusted gross income on the resident or nonresident
462 individual's federal individual income tax return for the taxable year; and

463 (B) was taxed by another state of the United States, the District of Columbia, or a
464 possession of the United States.

465 (3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:

466 (i) the taxpayer is a Ute tribal member; and

467 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the
468 requirements of this Subsection (3).

469 (b) The agreement described in Subsection (3)(a):

470 (i) may not:

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

472 (B) provide a subtraction under this section greater than or different from the
473 subtraction described in Subsection (2)(b); or

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

475 (ii) shall:

476 (A) provide for the implementation of the subtraction described in Subsection (2)(b);

477 (B) be in writing;

478 (C) be signed by:

479 (I) the governor; and

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

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

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

483 (c) (i) The governor shall report to the commission by no later than February 1 of each
484 year regarding whether or not an agreement meeting the requirements of this Subsection (3) is
485 in effect.

486 (ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the
487 subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or
488 after the January 1 following the termination of the agreement.

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

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

493 (ii) that are substantially similar to how adjusted gross income derived from Utah
494 sources is determined under Section 59-10-117.

495 (4) (a) For purposes of this Subsection (4), "Form 8814" means:

496 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's
497 Interest and Dividends; or

498 (ii) (A) a form designated by the commission in accordance with Subsection
499 (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal
500 individual income taxes the information contained on 2000 Form 8814 is reported on a form
501 other than Form 8814; and

502 (B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter
503 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as
504 being substantially similar to 2000 Form 8814 if for purposes of federal individual income
505 taxes the information contained on 2000 Form 8814 is reported on a form other than Form
506 8814.

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

509 (i) the lesser of:

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

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

512 (I) the child's taxable interest;

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

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

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

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

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

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

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

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

525 indebtedness of this state:

526 (i) the entity; or

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

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

529 Section 6. Section 59-10-507 is amended to read:

530 **59-10-507. Return by a pass-through entity.**

531 (1) As used in this section[:(a) "~~Pass-through entity~~" is as defined in Section
532 ~~59-10-1402~~. (b) "~~Taxable~~"], "taxable year" means a year or other time period that would be a
533 taxable year of a pass-through entity if the pass-through entity were subject to taxation under
534 this chapter.

535 (2) A pass-through entity having any income derived from or connected with Utah
536 sources shall make a return for the taxable year in accordance with Section 59-10-514.

537 Section 7. Section 59-10-514 is amended to read:

538 **59-10-514. Return filing requirements -- Rulemaking authority.**

539 (1) Subject to Subsection (3) and Section 59-10-518:

540 (a) an individual income tax return filed for a tax imposed in accordance with Part 1,
541 Determination and Reporting of Tax Liability and Information, shall be filed with the
542 commission on or before the day on which a federal individual income tax return is due [~~under~~
543 ~~the Internal Revenue Code~~];

544 (b) a fiduciary income tax return filed for a tax imposed in accordance with Part 2,
545 Trusts and Estates, shall be filed with the commission on or before the day on which a federal
546 return for estates and trusts is due [~~under the Internal Revenue Code~~]; or

547 (c) a return filed in accordance with Section 59-10-507 shall be filed with the
548 commission on or before the later of:

549 (i) the 15th day of the fourth month following the last day of the taxpayer's taxable
550 year[.]; or

551 (ii) the day on which the taxpayer is required to file a federal income tax return.

552 (2) A person required to make and file a return under this chapter shall, without

553 assessment, notice, or demand, pay any tax due:

554 (a) to the commission; and

555 (b) before the due date for filing the return, without regard to any extension of time for
556 filing the return.

557 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
558 commission may make rules prescribing what constitutes filing a return with the commission.

559 Section 8. Section **59-10-516** is amended to read:

560 **59-10-516. Filing extension -- Payment of tax -- Penalty -- Foreign residency.**

561 (1) (a) The commission shall allow a taxpayer an extension of time for filing a return.

562 (b) (i) For a return filed by a taxpayer except for a partnership, the extension under
563 Subsection (1)(a) may not exceed six months.

564 (ii) For a return filed by a partnership, the extension under Subsection (1)(a) may not
565 exceed five months.

566 (2) ~~[(a)]~~ Except as provided in Subsection ~~[(2)(b)]~~ (3), the commission may not impose
567 ~~[on a taxpayer]~~ a penalty under Section [59-1-401](#) on:

568 (a) a pass-through entity during the extension period described under Subsection (1) if
569 the pass-through entity, on or before the return due date, pays or withholds the tax on behalf of
570 a pass-through entity taxpayer; or

571 (b) a taxpayer other than a taxpayer described in Subsection (2)(a) during the extension
572 period prescribed under Subsection (1) [a penalty under Section [59-1-401](#)] if the taxpayer pays,
573 on or before the ~~[15th day of the fourth month following the close of the taxpayer's taxable~~
574 ~~year]~~ return due date, the lesser of:

575 (i) 90% of the total tax reported on the return for the current taxable year; or

576 (ii) 100% of the total tax liability for the taxable year immediately preceding the
577 current taxable year.

578 ~~[(b)]~~ (3) If a taxpayer fails to meet the requirements of Subsection (2)~~[(a)]~~, the
579 commission may apply to the total balance due a penalty as provided in Section [59-1-401](#).

580 ~~[(3)]~~ (4) If a federal income tax return filing is lawfully delayed pending a
581 determination of qualification for a federal tax exemption due to residency outside of the
582 United States, a taxpayer shall file a return within 30 days after that determination is made.

583 Section 9. Section **59-10-522** is amended to read:

584 **59-10-522. Extension of time for paying tax.**

585 (1) The commission~~[, except as otherwise provided by this chapter,]~~ may extend the
586 time for payment of the amount shown, or required to be shown, on any return required under
587 authority of this chapter (or any installment thereof), for a reasonable period not to exceed six
588 months from the date fixed for payment thereof. Such extension may exceed six months in the
589 cases of taxpayers who are outside the states of the union and the District of Columbia.

590 (2) Under rules prescribed by the commission, the time for payment of the amount
591 determined as a deficiency may be extended for a period not to exceed 18 months from the date
592 fixed for payment of the deficiency, and, in exceptional cases, for a further period not to exceed
593 12 months. An extension under this subsection may be granted only where it is shown to the
594 satisfaction of the commission that the payment of a deficiency upon the date fixed for the
595 payment thereof will result in undue hardship to the taxpayer. No extension may be granted if
596 the deficiency is due to negligence, to intentional disregard of rules, or to fraud with intent to
597 evade tax.

598 (3) Extensions of time for payment of any portion of a claim for tax under this chapter,
599 allowed in bankruptcy or receivership proceedings, which is unpaid, may be had in the same
600 manner and subject to the same provisions and limitations as provided in Subsection (2) in
601 respect of a deficiency in tax.

602 Section 10. Section **59-10-1403** is amended to read:

603 **59-10-1403. Income tax treatment of a pass-through entity -- Returns --**604 **Classification same as under Internal Revenue Code.**

605 (1) Subject to Subsection (3), a pass-through entity is not subject to a tax imposed by
606 this chapter.

607 (2) Except as provided in Section [59-10-1403.3](#), the income, gain, loss, deduction, or
608 credit of a pass-through entity shall be passed through to one or more pass-through entity
609 taxpayers as provided in this part.

610 (3) A pass-through entity is subject to the return filing requirements of Sections
611 [59-10-507](#) ~~[and]~~, [59-10-514](#), and [59-10-516](#).

612 (4) For purposes of taxation under this title, a pass-through entity that transacts
613 business in the state shall be classified in the same manner as the pass-through entity is
614 classified for federal income tax purposes.

615 Section 11. **Retrospective operation.**

616 (1) Except as provided in Subsections (2) and (3), this bill has retrospective operation
617 for a taxable year beginning on or after January 1, 2019.

618 (2) The changes to the following sections have retrospective operation for a taxable
619 year beginning on or after January 1, 2020:

620 (a) Section [59-10-103](#);

621 (b) Section [59-10-114](#);

622 (c) Section [59-10-507](#);

623 (d) Section [59-10-516](#); and

624 (e) Section [59-10-1403](#).

625 (3) The changes to Section [59-7-118](#) have retrospective operation for:

626 (a) the last taxable year of a taxpayer beginning on or before December 31, 2017; and

627 (b) a taxable year beginning on or after January 1, 2018.