

1 **INCOME TAX AMENDMENTS**

2 2020 SIXTH SPECIAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Wayne A. Harper**

5 House Sponsor: Robert M. Spendlove

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7 **LONG TITLE**

8 **General Description:**

9 This bill modifies income tax provisions to provide that certain amounts received in  
10 response to COVID-19 are not subject to state income tax.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ provides that certain amounts received from a forgiven loan under the Paycheck  
14 Protection Program or similar program are exempt from state corporate franchise  
15 and income tax by:

- 16 • modifying the definition of "unadjusted income"; and
- 17 • creating a subtraction from unadjusted income;

18 ▶ provides that a grant or a forgiven loan provided by the state, a county within the  
19 state, or a municipality within the state in response to COVID-19 using certain  
20 federal funds is exempt from state corporate franchise and income tax by creating a  
21 subtraction from unadjusted income;

22 ▶ provides that certain amounts received from a forgiven loan under the Paycheck  
23 Protection Program or similar program and an amount received as an individual  
24 recovery rebate are exempt from state individual income tax by:

- 25 • modifying the definition of "adjusted gross income"; and
- 26 • creating a subtraction from adjusted gross income;

27 ▶ provides that a grant or a forgiven loan provided by the state, a county within the  
28 state, or a municipality within the state in response to COVID-19 using certain

29 federal funds is exempt from state individual income tax by creating a subtraction from  
30 adjusted gross income; and

31       ▶ makes technical changes.

32 **Money Appropriated in this Bill:**

33       None

34 **Other Special Clauses:**

35       This bill provides a special effective date.

36       This bill provides retrospective operation.

37 **Utah Code Sections Affected:**

38 AMENDS:

39       **59-7-101**, as last amended by Laws of Utah 2019, Chapters 11, 418, and 466

40       **59-7-106**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 12

41       **59-7-402**, as last amended by Laws of Utah 2019, Chapters 418 and 466

42       **59-10-103**, as last amended by Laws of Utah 2019, Chapter 323

43       **59-10-114**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 12

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

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

47       **59-7-101. Definitions.**

48       As used in this chapter:

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

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

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

56 and

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

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

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

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

65 (4) "Apportioned income" means apportionable income multiplied by the  
66 apportionment fraction as determined in Section 59-7-311.

67 (5) "Business income" means the same as that term is defined in Section 59-7-302.

68 (6) "Captive insurance company" means the same as that term is defined in Section  
69 31A-1-301.

70 (7) (a) "Captive real estate investment trust" means a real estate investment trust if:

71 (i) the shares or beneficial interests of the real estate investment trust are not regularly  
72 traded on an established securities market; and

73 (ii) more than 50% of the voting power or value of the shares or beneficial interests of  
74 the real estate investment trust are directly, indirectly, or constructively:

75 (A) owned by a controlling entity of the real estate investment trust; or

76 (B) controlled by a controlling entity of the real estate investment trust.

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

79 (8) (a) "Common ownership" means the direct or indirect control or ownership of more  
80 than 50% of the outstanding voting stock of:

81 (i) a parent-subsidiary controlled group as defined in Section 1563, Internal Revenue  
82 Code, except that 50% shall be substituted for 80%;

83 (ii) a brother-sister controlled group as defined in Section 1563, Internal Revenue  
84 Code; or

85 (iii) three or more corporations each of which is a member of a group of corporations  
86 described in Subsection (2)(a)(i) or (ii), and one of which is:

87 (A) a common parent corporation included in a group of corporations described in  
88 Subsection (2)(a)(i); and

89 (B) included in a group of corporations described in Subsection (2)(a)(ii).

90 (b) Ownership of outstanding voting stock shall be determined by Section 1563,  
91 Internal Revenue Code.

92 (9) (a) "Controlling entity of a captive real estate investment trust" means an entity  
93 that:

94 (i) is treated as an association taxable as a corporation under the Internal Revenue  
95 Code;

96 (ii) is not exempt from federal income taxation under Section 501(a), Internal Revenue  
97 Code; and

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

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

100 (B) the value of the shares or beneficial interests of a captive real estate investment  
101 trust.

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

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

104 (ii) a qualified real estate investment subsidiary described in Section 856(i), Internal  
105 Revenue Code, except for a qualified real estate investment trust subsidiary of a captive real  
106 estate investment trust; or

107 (iii) a foreign real estate investment trust.

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

- 110 (10) "Corporate return" or "return" includes a combined report.
- 111 (11) "Corporation" includes:
  - 112 (a) entities defined as corporations under Sections 7701(a) and 7704, Internal Revenue
  - 113 Code; and
  - 114 (b) other organizations that are taxed as corporations for federal income tax purposes
  - 115 under the Internal Revenue Code.
- 116 (12) "COVID-19" means:
  - 117 (a) the severe acute respiratory syndrome coronavirus 2; or
  - 118 (b) the disease caused by severe acute respiratory syndrome coronavirus 2.
- 119 ~~[(12)]~~ (13) "Dividend" means any distribution, including money or other type of
- 120 property, made by a corporation to its shareholders out of its earnings or profits accumulated
- 121 after December 31, 1930.
- 122 ~~[(13)]~~ (14) (a) "Doing business" includes any transaction in the course of business by a
- 123 domestic corporation or by a foreign corporation qualified to do or doing business in this state.
- 124 (b) Except as provided in Subsection ~~[(13)]~~ (14)(c) or Subsection 59-7-102(3), "doing
- 125 business" includes:
  - 126 (i) the right to do business through incorporation or qualification;
  - 127 (ii) owning, renting, or leasing of real or personal property within this state;
  - 128 (iii) the participation in joint ventures, working and operating agreements, the
  - 129 performance of which takes place in this state;
  - 130 (iv) selling or performing a service in this state; and
  - 131 (v) earning income from the use of intangible property in this state.
- 132 (c) "Doing business" does not include the business activity of a corporation if the
- 133 corporation's only business activity within the state is the solicitation of orders for sales of
- 134 tangible personal property that are protected under 15 U.S.C. Secs. 381 through 384.
- 135 ~~[(14)]~~ (15) "Domestic corporation" means a corporation that is incorporated or
- 136 organized under the laws of this state.

137           ~~[(15)]~~ (16) "Exercising a corporate franchise" does not include the business activity of  
138 a corporation if the corporation's only business activity within the state is the solicitation of  
139 orders for sales of tangible personal property that are protected under 15 U.S.C. Secs. 381  
140 through 384.

141           ~~[(16)]~~ (17) (a) "Farmers' cooperative" means an association, corporation, or other  
142 organization that is:

143           (i) (A) an association, corporation, or other organization of farmers or fruit growers; or

144           (B) an association, corporation, or other organization that is similar to an association,  
145 corporation, or organization described in Subsection ~~[(16)]~~ (17)(a)(i)(A); and

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

147           (A) (I) market the products of members of the cooperative or the products of other  
148 producers; and

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

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

154           (II) turn over the supplies and equipment described in Subsection ~~[(16)]~~  
155 (17)(a)(ii)(B)(I) at actual costs plus necessary expenses to the members of the cooperative or  
156 other persons.

157           (b) (i) Subject to Subsection ~~[(16)]~~ (17)(b)(ii), for purposes of this Subsection ~~[(16)]~~  
158 (17), the commission by rule, made in accordance with Title 63G, Chapter 3, Utah  
159 Administrative Rulemaking Act, shall define:

160           (A) the terms "member" and "producer"; and

161           (B) what constitutes an association, corporation, or other organization that is similar to  
162 an association, corporation, or organization described in Subsection ~~[(16)]~~ (17)(a)(i)(A).

163           (ii) The rules made under this Subsection ~~[(16)]~~ (17)(b) shall be consistent with the

164 filing requirements under federal law for a farmers' cooperative.

165       ~~[(17)]~~ (18) "Foreign corporation" means a corporation that is not incorporated or  
166 organized under the laws of this state.

167       ~~[(18)]~~ (19) (a) "Foreign operating company" means a corporation that:

168       (i) is incorporated in the United States;

169       (ii) conducts at least 80% of the corporation's business activity, as determined under  
170 Section 59-7-401, outside the United States; and

171       (iii) as calculated in accordance with Part 3, Allocation and Apportionment of Income -  
172 Utah UDITPA Provisions, has:

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

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

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

177       ~~[(19)]~~ (20) (a) "Foreign real estate investment trust" means:

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

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

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

182       (II) cash or cash equivalents; or

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

184       (B) the business entity is:

185       (I) not subject to income taxation:

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

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

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

190       (C) the business entity distributes at least 85% of the business entity's taxable income,

191 as computed in the jurisdiction in which the business entity is organized, to the holders of the  
192 business entity's:

193 (I) shares or beneficial interests; and

194 (II) on an annual basis;

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

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

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

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

201 (E) the business entity is organized in a country that has a tax treaty with the United  
202 States; or

203 (ii) a listed Australian property trust.

204 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
205 commission may make rules defining:

206 (i) "cash or cash equivalents";

207 (ii) "established securities market"; or

208 (iii) "listed Australian property trust."

209 [~~20~~] (21) "Income" includes losses.

210 [~~21~~] (22) "Internal Revenue Code" means Title 26 of the United States Code as  
211 effective during the year in which Utah taxable income is determined.

212 [~~22~~] (23) "Nonbusiness income" means the same as that term is defined in Section  
213 [59-7-302](#).

214 [~~23~~] (24) "Real estate investment trust" means the same as that term is defined in  
215 Section 856, Internal Revenue Code.

216 [~~24~~] (25) "Related expenses" means:

217 (a) expenses directly attributable to nonbusiness income; and

218 (b) the portion of interest or other expense indirectly attributable to both nonbusiness  
219 and business income that bears the same ratio to the aggregate amount of such interest or other  
220 expense, determined without regard to this Subsection [~~(24)~~] (25), as the average amount of the  
221 asset producing the nonbusiness income bears to the average amount of all assets of the  
222 taxpayer within the taxable year.

223 [~~(25)~~] (26) "S corporation" means an S corporation as defined in Section 1361, Internal  
224 Revenue Code.

225 [~~(26)~~] (27) "Safe harbor lease" means a lease that qualified as a safe harbor lease under  
226 Section 168, Internal Revenue Code.

227 [~~(27)~~] (28) "State of the United States" includes any of the 50 states or the District of  
228 Columbia.

229 [~~(28)~~] (29) (a) "Taxable year" means the calendar year or the fiscal year ending during  
230 such calendar year upon the basis of which the adjusted income is computed.

231 (b) In the case of a return made for a fractional part of a year under this chapter or  
232 under rules prescribed by the commission, "taxable year" includes the period for which such  
233 return is made.

234 [~~(29)~~] (30) "Taxpayer" means any corporation subject to the tax imposed by this  
235 chapter.

236 [~~(30)~~] (31) "Threshold level of business activity" means business activity in the United  
237 States equal to or greater than 20% of the corporation's total business activity as determined  
238 under Section 59-7-401.

239 [~~(31)~~] (32) (a) "Unadjusted income" means federal taxable income as determined on a  
240 separate return basis before intercompany eliminations as determined by the Internal Revenue  
241 Code, before the net operating loss deduction and special deductions for dividends received.

242 (b) "Unadjusted income" includes deferred foreign income described in Section 965(a),  
243 Internal Revenue Code.

244 (c) "Unadjusted income" does not include income received from:

245 (i) a loan forgiven in accordance with 15 U.S.C. Sec. 636(a)(36), to the extent that a  
246 deduction for the expenditures paid with the loan is disallowed; or

247 (ii) a similar paycheck protection loan that is:

248 (A) authorized by the federal government;

249 (B) provided in response to COVID-19;

250 (C) forgiven if the borrower meets the expenditure requirements; and

251 (D) exempt from federal income tax, to the extent that a deduction for the expenditures  
252 paid with the loan is disallowed.

253 ~~[(32)]~~ (33) (a) "Unitary group" means a group of corporations that:

254 (i) are related through common ownership; and

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

258 (A) centralized management;

259 (B) functional integration; and

260 (C) economies of scale.

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

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

263 ~~[(33)]~~ (34) "United States" includes the 50 states and the District of Columbia.

264 ~~[(34)]~~ (35) "Utah net loss" means the current year Utah taxable income before Utah net  
265 loss deduction, if determined to be less than zero.

266 ~~[(35)]~~ (36) "Utah net loss deduction" means the amount of Utah net losses from other  
267 taxable years that a taxpayer may carry forward to the current taxable year in accordance with  
268 Section 59-7-110.

269 ~~[(36)]~~ (37) (a) "Utah taxable income" means Utah taxable income before net loss  
270 deduction less Utah net loss deduction.

271 (b) "Utah taxable income" includes income from tangible or intangible property located

272 or having situs in this state, regardless of whether carried on in intrastate, interstate, or foreign  
273 commerce.

274 ~~[(37)]~~ (38) "Utah taxable income before net loss deduction" means apportioned income  
275 plus nonbusiness income allocable to Utah net of related expenses.

276 ~~[(38)]~~ (39) (a) "Water's edge combined report" means a report combining the income  
277 and activities of:

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

279 (A) corporations organized or incorporated in the United States, including those  
280 corporations qualifying for the Puerto Rico and Possession Tax Credit as provided in Section  
281 936, Internal Revenue Code, in accordance with Subsection ~~[(38)]~~ (39)(b); and

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

284 (ii) an affiliated group electing to file a water's edge combined report under Subsection  
285 59-7-402(2).

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

289 ~~[(39)]~~ (40) "Worldwide combined report" means the combination of the income and  
290 activities of all members of a unitary group irrespective of the country in which the  
291 corporations are incorporated or conduct business activity.

292 Section 2. Section **59-7-106** is amended to read:

293 **59-7-106. Subtractions from unadjusted income.**

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

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

298 (b) subject to Subsection (2), the net capital loss, as defined for federal purposes, if the

299 taxpayer elects to deduct the net capital loss on the return filed under this chapter for the  
300 taxable year for which the net capital loss is incurred;

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

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

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

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

311 (g) the safe harbor lease adjustment required under Subsections 59-7-111(1)(b) and  
312 (2)(b);

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

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

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

319 (A) doing business; or

320 (B) exercising a corporate franchise;

321 (ii) if that tax is paid by the corporation to:

322 (A) Utah;

323 (B) another state of the United States;

324 (C) a foreign country;

325 (D) a United States possession; or

- 326 (E) the Commonwealth of Puerto Rico; and
- 327 (iii) to the extent that tax was added to unadjusted income under Section 59-7-105;
- 328 (j) a charitable contribution, to the extent the charitable contribution is allowed as a
- 329 subtraction under Section 59-7-109;
- 330 (k) subject to Subsection (3), 50% of a dividend considered to be received or received
- 331 from a subsidiary that:
  - 332 (i) is a member of the unitary group;
  - 333 (ii) is organized or incorporated outside of the United States; and
  - 334 (iii) is not included in a combined report under Section 59-7-402 or 59-7-403;
- 335 (l) subject to Subsection (4) and Section 59-7-401, 50% of the adjusted income of a
- 336 foreign operating company;
- 337 (m) the amount of gain or loss that is included in unadjusted income but not recognized
- 338 for federal purposes on stock sold or exchanged by a member of a selling consolidated group as
- 339 defined in Section 338, Internal Revenue Code, if an election has been made in accordance
- 340 with Section 338(h)(10), Internal Revenue Code;
- 341 (n) the amount of gain or loss that is included in unadjusted income but not recognized
- 342 for federal purposes on stock sold, exchanged, or distributed by a corporation in accordance
- 343 with Section 336(e), Internal Revenue Code, if an election under Section 336(e), Internal
- 344 Revenue Code, has been made for federal purposes;
- 345 (o) subject to Subsection (5), an adjustment to the following due to a difference
- 346 between basis for federal purposes and basis as computed under Section 59-7-107:
  - 347 (i) an amortization expense;
  - 348 (ii) a depreciation expense;
  - 349 (iii) a gain;
  - 350 (iv) a loss; or
  - 351 (v) an item similar to Subsections (1)(o)(i) through (iv);
  - 352 (p) an interest expense that is not deducted on a federal corporation income tax return

353 under Section 265(b) or 291(e), Internal Revenue Code;

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

355 subsidiary that is an insurance company is:

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

357 (ii) under common ownership;

358 (r) subject to Subsection 59-7-105(10), for a corporation that is an account owner as

359 defined in Section 53B-8a-102, the amount of a qualified investment as defined in Section

360 53B-8a-102.5:

361 (i) that the corporation or a person other than the corporation makes into an account

362 owned by the corporation during the taxable year;

363 (ii) to the extent that neither the corporation nor the person other than the corporation

364 described in Subsection (1)(r)(i) deducts the qualified investment on a federal income tax

365 return; and

366 (iii) to the extent the qualified investment does not exceed the maximum amount of the

367 qualified investment that may be subtracted from unadjusted income for a taxable year in

368 accordance with Subsection 53B-8a-106(1);

369 (s) for a corporation that makes a donation, as that term is defined in Section

370 53B-8a-201, to the Student Prosperity Savings Program created in Section 53B-8a-202, the

371 amount of the donation to the extent that the corporation did not deduct the donation on a

372 federal income tax return;

373 (t) for purposes of income included in a combined report under Part 4, Combined

374 Reporting, the entire amount of the dividends a member of a unitary group receives or is

375 considered to receive from a captive real estate investment trust;

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

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

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

379 (v) for a taxable year beginning on or after January 1, 2019, but beginning on or before

380 December 31, 2019, only:

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

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

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

390 (x) for a taxable year beginning on or after January 1, 2020, but beginning on or before  
391 December 31, 2020, the amount of:

392 (i) a paycheck protection loan similar to a loan forgiven in accordance with 15 U.S.C.  
393 Sec. 636(a)(36) that is:

394 (A) authorized by the federal government;

395 (B) provided in response to COVID-19;

396 (C) forgiven if the borrower meets the expenditure requirements; and

397 (D) subject to federal income tax, to the extent that a deduction for the expenditures  
398 paid with the loan is disallowed; and

399 (ii) any grant funds [~~the taxpayer receives under Title 9, Chapter 6, Part 9, COVID-19~~  
400 ~~Cultural Assistance Grant Program, Subsection 63N-12-508(3), or Title 63N, Chapter 15,~~  
401 ~~COVID-19 Economic Recovery Programs, to the extent that the grant funds are included in~~  
402 ~~unadjusted income] or forgiven loans that:~~

403 (A) the taxpayer receives from the state, a county within the state, or a municipality  
404 within the state in response to COVID-19;

405 (B) are funded using federal revenue received by the state, the county, or the  
406 municipality to respond to COVID-19; and

407            (C) are included in unadjusted income.

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

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

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

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

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

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

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

415 Code.

416            (3) (a) For purposes of calculating the subtraction provided for in Subsection (1)(k), a

417 taxpayer shall first subtract from a dividend considered to be received or received an expense

418 directly attributable to that dividend.

419            (b) For purposes of Subsection (3)(a), the amount of an interest expense that is

420 considered to be directly attributable to a dividend is calculated by multiplying the interest

421 expense by a fraction:

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

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

425            (c) (i) For purposes of calculating the subtraction allowed by Subsection (1)(k), in

426 determining income apportionable to this state, a portion of the factors of a foreign subsidiary

427 that has dividends that are partially subtracted under Subsection (1)(k) shall be included in the

428 combined report factors as provided in this Subsection (3)(c).

429            (ii) For purposes of Subsection (3)(c)(i), the portion of the factors of a foreign

430 subsidiary that has dividends that are partially subtracted under Subsection (1)(k) that shall be

431 included in the combined report factors is calculated by multiplying each factor of the foreign

432 subsidiary by a fraction:

433            (A) not to exceed 100%; and

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

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

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

440 (i) if the taxpayer elects to file a worldwide combined report as provided in Section  
441 59-7-403; or

442 (ii) for the following:

443 (A) income generated from intangible property; or

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

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

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

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

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

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

457 (i) income generated from intangible property; or

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

460 (5) (a) For purposes of the subtraction provided for in Subsection (1)(o), the amount of

461 a reduction in basis shall be allowed as an expense for the taxable year in which a federal tax  
462 credit is claimed if:

- 463 (i) there is a reduction in federal basis for a federal tax credit; and
- 464 (ii) there is no corresponding tax credit allowed in this state.

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

468 Section 3. Section **59-7-402** is amended to read:

469 **59-7-402. Water's edge combined report.**

470 (1) Except as provided in Section **59-7-403**, if any corporation listed in Subsection  
471 **59-7-101**~~[(38)]~~(39)(a) is doing business in Utah, the unitary group shall file a water's edge  
472 combined report.

473 (2) (a) A group of corporations that are not otherwise a unitary group may elect to file a  
474 water's edge combined report if each member of the group is:

- 475 (i) doing business in Utah;
- 476 (ii) part of the same affiliated group; and
- 477 (iii) qualified, under Section 1501, Internal Revenue Code, to file a federal  
478 consolidated return.

479 (b) Each corporation within the affiliated group that is doing business in Utah must  
480 consent to filing a combined report. If an affiliated group elects to file a combined report, each  
481 corporation within the affiliated group that is doing business in Utah must file a combined  
482 report.

483 (c) Corporations that elect to file a water's edge combined report under this section may  
484 not thereafter elect to file a separate return without the consent of the commission.

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

486 **59-10-103. Definitions.**

487 (1) As used in this chapter:

488 (a) (i) "Adjusted gross income":  
489 ~~[(†)]~~ (A) for a resident or nonresident individual, ~~[is as defined]~~ means the same as that  
490 term is defined in Section 62, Internal Revenue Code; or  
491 ~~[(†)]~~ (B) for a resident or nonresident estate or trust, is as calculated in Section 67(e),  
492 Internal Revenue Code.  
493 (ii) "Adjusted gross income" does not include:  
494 (A) income received from a loan forgiven in accordance with 15 U.S.C. Sec. 636(a)  
495 (36), to the extent that a deduction for the expenditures paid with the loan is disallowed, or a  
496 similar paycheck protection loan that is authorized by the federal government, provided in  
497 response to COVID-19, forgiven if the borrower meets the expenditure requirements, and  
498 exempt from federal income tax, to the extent that a deduction for the expenditures paid with  
499 the loan is disallowed; or  
500 (B) an amount that an individual receives in accordance with Section 6428, Internal  
501 Revenue Code, or an amount that an individual receives that is authorized by the federal  
502 government as a tax credit for the 2020 tax year, provided in response to COVID-19, paid in  
503 advance of the filing of the individual's 2020 federal income tax return, and exempt from  
504 federal income tax.  
505 (b) "Corporation" includes:  
506 (i) an association;  
507 (ii) a joint stock company; and  
508 (iii) an insurance company.  
509 (c) "COVID-19" means:  
510 (i) the severe acute respiratory syndrome coronavirus 2; or  
511 (ii) the disease caused by severe acute respiratory syndrome coronavirus 2.  
512 ~~[(e)]~~ (d) "Distributable net income" ~~[is as defined]~~ means the same as that term is  
513 defined in Section 643, Internal Revenue Code.  
514 ~~[(d)]~~ (e) "Employee" ~~[is as defined]~~ means the same as that term is defined in Section

515 59-10-401.

516 [~~(e)~~] (f) "Employer" [~~is as defined~~] means the same as that term is defined in Section

517 59-10-401.

518 [~~(f)~~] (g) "Federal taxable income":

519 (i) for a resident or nonresident individual, means taxable income as defined by Section  
520 63, Internal Revenue Code; or

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

523 [~~(g)~~] (h) "Fiduciary" means:

524 (i) a guardian;

525 (ii) a trustee;

526 (iii) an executor;

527 (iv) an administrator;

528 (v) a receiver;

529 (vi) a conservator; or

530 (vii) any person acting in any fiduciary capacity for any individual.

531 [~~(h)~~] (i) "Guaranteed annuity interest" [~~is as defined~~] means the same as that term is  
532 defined in 26 C.F.R. Sec. 1.170A-6(c)(2).

533 [~~(i)~~] (j) "Homesteaded land diminished from the Uintah and Ouray Reservation" means  
534 the homesteaded land that was held to have been diminished from the Uintah and Ouray  
535 Reservation in Hagen v. Utah, 510 U.S. 399 (1994).

536 [~~(j)~~] (k) "Individual" means a natural person and includes aliens and minors.

537 [~~(k)~~] (l) "Irrevocable trust" means a trust in which the settlor may not revoke or  
538 terminate all or part of the trust without the consent of a person who has a substantial beneficial  
539 interest in the trust and the interest would be adversely affected by the exercise of the settlor's  
540 power to revoke or terminate all or part of the trust.

541 [~~(l)~~] (m) "Military service" [~~is as defined~~] means the same as that term is defined in

542 Pub. L. No. 108-189, Sec. 101.

543 ~~[(m)]~~ (n) "Nonresident individual" means an individual who is not a resident of this  
544 state.

545 ~~[(m)]~~ (o) "Nonresident trust" or "nonresident estate" means a trust or estate which is not  
546 a resident estate or trust.

547 ~~[(o)]~~ (p) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other  
548 unincorporated organization:

549 (A) through or by means of which any business, financial operation, or venture is  
550 carried on; and

551 (B) ~~[which]~~ that is not, within the meaning of this chapter~~[:]~~, a trust, an estate, or a  
552 corporation.

553 ~~[(f) a trust;]~~

554 ~~[(H) an estate; or]~~

555 ~~[(H) a corporation.]~~

556 (ii) "Partnership" does not include any organization not included under the definition of  
557 "partnership" in Section 761, Internal Revenue Code.

558 (iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or  
559 organization described in Subsection (1)~~[(o)]~~(p)(i).

560 ~~[(p)]~~ (q) "Qualified nongrantor charitable lead trust" means a trust:

561 (i) that is irrevocable;

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

563 (A) a fixed term of years; or

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

565 (iii) under which:

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

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

568 (II) as a~~[:]~~ guaranteed annuity interest or a unitrust interest; and

569 [~~(Aa)~~ guaranteed annuity interest; or]

570 [~~(Bb)~~ unitrust interest; and]

571 (B) assets remaining in the trust at the termination of the trust term are distributed to a  
572 beneficiary:

573 (I) designated in the trust; and

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

575 (iv) for which the trust is allowed a deduction under Section 642(c), Internal Revenue  
576 Code; and

577 (v) under which the grantor of the trust is not treated as the owner of any portion of the  
578 trust for federal income tax purposes.

579 ~~[(r)]~~ (r) "Resident individual" means an individual who is domiciled in this state for  
580 any period of time during the taxable year, but only for the duration of the period during which  
581 the individual is domiciled in this state.

582 ~~[(s)]~~ (s) "Resident estate" or "resident trust" ~~[is as defined]~~ means the same as that term  
583 is defined in Section 75-7-103.

584 ~~[(t)]~~ (t) "Servicemember" ~~[is as defined]~~ means the same as that term is defined in Pub.  
585 L. No. 108-189, Sec. 101.

586 ~~[(u)]~~ (u) "State income tax percentage for a nonresident estate or trust" means a  
587 percentage equal to a nonresident estate's or trust's state taxable income for the taxable year  
588 divided by the nonresident estate's or trust's total adjusted gross income for that taxable year  
589 after making the adjustments required by:

590 (i) Section 59-10-202;

591 (ii) Section 59-10-207;

592 (iii) Section 59-10-209.1; or

593 (iv) Section 59-10-210.

594 ~~[(v)]~~ (v) "State income tax percentage for a nonresident individual" means a percentage  
595 equal to a nonresident individual's state taxable income for the taxable year divided by the

596 difference between:

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

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

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

601 (ii) if the nonresident individual described in Subsection (1)~~(v)~~(v)(i) is a  
602 servicemember, the compensation the servicemember receives for military service if the  
603 servicemember is serving in compliance with military orders.

604 ~~(v)~~ (w) "State income tax percentage for a part-year resident individual" means, for a  
605 taxable year, a fraction:

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

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

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

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

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

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

616 (Aa) additions and subtractions required by Section 59-10-114; and

617 (Bb) adjustments required by Section 59-10-115; and

618 (II) calculating the portion of the amount determined under Subsection

619 (1)~~(v)~~(w)(i)(B)(I) that is derived from Utah sources in accordance with Section 59-10-117;

620 and

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

622 (A) the part-year resident individual's total adjusted gross income for that taxable year,

623 after making the:

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

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

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

630 [~~w~~] (x) "Taxable income" or "state taxable income":

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

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

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

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

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

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

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

640 (B) calculating the portion of the amount determined under Subsection

641 (1)[~~w~~](x)(ii)(A) that is derived from Utah sources in accordance with Section 59-10-117;

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

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

644 [~~x~~] (y) "Taxpayer" means any individual, estate, trust, or beneficiary of an estate or  
645 trust, that has income subject in whole or part to the tax imposed by this chapter.

646 [~~y~~] (z) "Trust term" means a time period:

647 (i) beginning on the day on which a qualified nongrantor charitable lead trust is  
648 created; and

649 (ii) ending on the day on which the qualified nongrantor charitable lead trust described

650 in Subsection (1)~~(y)~~(z)(i) terminates.

651 ~~(z)~~ (aa) "Uintah and Ouray Reservation" means the lands recognized as being  
652 included within the Uintah and Ouray Reservation in:

653 (i) Hagen v. Utah, 510 U.S. 399 (1994); and

654 (ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).

655 ~~(aa)~~ (bb) "Unadjusted income" means an amount equal to the difference between:

656 (i) the total income required to be reported by a resident or nonresident estate or trust  
657 on the resident or nonresident estate's or trust's federal income tax return for estates and trusts  
658 for the taxable year; and

659 (ii) the sum of the following:

660 (A) fees paid or incurred to the fiduciary of a resident or nonresident estate or trust:

661 (I) for administering the resident or nonresident estate or trust; and

662 (II) that the resident or nonresident estate or trust deducts as allowed on the resident or  
663 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable  
664 year;

665 (B) the income distribution deduction that a resident or nonresident estate or trust  
666 deducts under Section 651 or 661, Internal Revenue Code, as allowed on the resident or  
667 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable  
668 year;

669 (C) the amount that a resident or nonresident estate or trust deducts as a deduction for  
670 estate tax or generation skipping transfer tax under Section 691(c), Internal Revenue Code, as  
671 allowed on the resident or nonresident estate's or trust's federal income tax return for estates  
672 and trusts for the taxable year; and

673 (D) the amount that a resident or nonresident estate or trust deducts as a personal  
674 exemption under Section 642(b), Internal Revenue Code, as allowed on the resident or  
675 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable  
676 year.

677           ~~[(bb)]~~ (cc) "Unitrust interest" ~~[is as defined]~~ means the same as that term is defined in  
678 26 C.F.R. Sec. 1.170A-6(c)(2).

679           ~~[(cc)]~~ (dd) "Ute tribal member" means ~~[a person]~~ an individual who is enrolled as a  
680 member of the Ute Indian Tribe of the Uintah and Ouray Reservation.

681           ~~[(dd)]~~ (ee) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray  
682 Reservation.

683           ~~[(ee)]~~ (ff) "Wages" ~~[is as defined]~~ means the same as that term is defined in Section  
684 [59-10-401](#).

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

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

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

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

696           **59-10-114. Additions to and subtractions from adjusted gross income of an**  
697 **individual.**

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

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

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

703           (i) a parent elects to report on the parent's federal individual income tax return for the

704 taxable year; and

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

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

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

712           (B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and

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

715       (ii) a disbursement required to be added to adjusted gross income in accordance with  
716 Subsection 31A-32a-105(3); or

717       (iii) an amount required to be added to adjusted gross income in accordance with  
718 Subsection 31A-32a-105(5)(c);

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

724           (i) is not expended for:

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

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

729       (ii) is:

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

- 731 (I) who is the account owner; and
- 732 (II) on the resident or nonresident individual's return filed under this chapter for a
- 733 taxable year beginning on or before December 31, 2007; or
- 734 (B) used as the basis for the resident or nonresident individual who is the account
- 735 owner to claim a tax credit under Section 59-10-1017;
- 736 (e) except as provided in Subsection (5), for bonds, notes, and other evidences of
- 737 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other
- 738 evidences of indebtedness:
- 739 (i) issued by one or more of the following entities:
- 740 (A) a state other than this state;
- 741 (B) the District of Columbia;
- 742 (C) a political subdivision of a state other than this state; or
- 743 (D) an agency or instrumentality of an entity described in Subsections (1)(e)(i)(A)
- 744 through (C); and
- 745 (ii) to the extent the interest is not included in adjusted gross income on the taxpayer's
- 746 federal income tax return for the taxable year;
- 747 (f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a
- 748 resident trust of income that was taxed at the trust level for federal tax purposes, but was
- 749 subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);
- 750 (g) any distribution received by a resident beneficiary of a nonresident trust of
- 751 undistributed distributable net income realized by the trust on or after January 1, 2004, if that
- 752 undistributed distributable net income was taxed at the trust level for federal tax purposes, but
- 753 was not taxed at the trust level by any state, with undistributed distributable net income
- 754 considered to be distributed from the most recently accumulated undistributed distributable net
- 755 income; and
- 756 (h) any adoption expense:
- 757 (i) for which a resident or nonresident individual receives reimbursement from another

758 person; and  
759 (ii) to the extent to which the resident or nonresident individual subtracts that adoption  
760 expense:  
761 (A) on a return filed under this chapter for a taxable year beginning on or before  
762 December 31, 2007; or  
763 (B) from federal taxable income on a federal individual income tax return.  
764 (2) There shall be subtracted from adjusted gross income of a resident or nonresident  
765 individual:  
766 (a) the difference between:  
767 (i) the interest or a dividend on an obligation or security of the United States or an  
768 authority, commission, instrumentality, or possession of the United States, to the extent that  
769 interest or dividend is:  
770 (A) included in adjusted gross income for federal income tax purposes for the taxable  
771 year; and  
772 (B) exempt from state income taxes under the laws of the United States; and  
773 (ii) any interest on indebtedness incurred or continued to purchase or carry the  
774 obligation or security described in Subsection (2)(a)(i);  
775 (b) for taxable years beginning on or after January 1, 2000, if the conditions of  
776 Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:  
777 (i) during a time period that the Ute tribal member resides on homesteaded land  
778 diminished from the Uintah and Ouray Reservation; and  
779 (ii) from a source within the Uintah and Ouray Reservation;  
780 (c) an amount received by a resident or nonresident individual or distribution received  
781 by a resident or nonresident beneficiary of a resident trust:  
782 (i) if that amount or distribution constitutes a refund of taxes imposed by:  
783 (A) a state; or  
784 (B) the District of Columbia; and

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

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

789 (i) paid:

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

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

793 (C) for the taxable year; and

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

797 (e) an amount:

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

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

801 (A) federal law;

802 (B) a treaty; or

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

804 (f) an amount received:

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

807 (ii) by a resident or nonresident individual;

808 (iii) for the taxable year; and

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

811 (g) the amount of all income, including income apportioned to another state, of a

812 nonmilitary spouse of an active duty military member if:

813       (i) both the nonmilitary spouse and the active duty military member are nonresident

814 individuals;

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

816       (iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec.

817 4001(a)(2); and

818       (iv) the income is included in adjusted gross income for federal income tax purposes

819 for the taxable year;

820       (h) for a taxable year beginning on or after January 1, 2019, but beginning on or before

821 December 31, 2019, only:

822       (i) the amount of any FDIC premium paid or incurred by the taxpayer that is

823 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal

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

825       (ii) the amount of any FDIC premium paid or incurred by the taxpayer that is

826 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal

827 Revenue Code, for the taxable year;

828       (i) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC

829 premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income

830 tax purposes under Section 162(r), Internal Revenue Code, for the taxable year; and

831       (j) for a taxable year beginning on or after January 1, 2020, but beginning on or before

832 December 31, 2020, the amount ~~of~~:

833       (i) of a paycheck protection loan similar to a loan forgiven in accordance with 15

834 U.S.C. Sec. 636(a)(36) that is:

835       (A) authorized by the federal government;

836       (B) provided in response to COVID-19;

837       (C) forgiven if the borrower meets the expenditure requirements; and

838       (D) subject to federal income tax, to the extent that a deduction for the expenditures

839 paid with the loan is disallowed;  
840 (ii) that a resident or a nonresident individual receives that is:  
841 (A) authorized by the federal government as a tax credit for the 2020 tax year;  
842 (B) provided in response to COVID-19;  
843 (C) paid in advance of the filing of the individual's 2020 federal income tax return; and  
844 (D) subject to federal income tax; and  
845 (iii) of any grant funds [the resident or nonresident individual receives under Title 9,  
846 Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program, Subsection 63N-12-508(3),  
847 or Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, to the extent that the grant  
848 funds are included in adjusted gross income] or forgiven loans that:  
849 (A) the resident or nonresident individual receives from the state, a county within the  
850 state, or a municipality within the state in response to COVID-19;  
851 (B) are funded by using federal revenue received by the state, the county, or the  
852 municipality to respond to COVID-19; and  
853 (C) are included in adjusted gross income.  
854 (3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:  
855 (i) the taxpayer is a Ute tribal member; and  
856 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the  
857 requirements of this Subsection (3).  
858 (b) The agreement described in Subsection (3)(a):  
859 (i) may not:  
860 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;  
861 (B) provide a subtraction under this section greater than or different from the  
862 subtraction described in Subsection (2)(b); or  
863 (C) affect the power of the state to establish rates of taxation; and  
864 (ii) shall:  
865 (A) provide for the implementation of the subtraction described in Subsection (2)(b);

866 (B) be in writing;  
867 (C) be signed by:  
868 (I) the governor; and  
869 (II) the chair of the Business Committee of the Ute tribe;  
870 (D) be conditioned on obtaining any approval required by federal law; and  
871 (E) state the effective date of the agreement.

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

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

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

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

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

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

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

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

891 (B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter  
892 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as

893 being substantially similar to 2000 Form 8814 if for purposes of federal individual income  
894 taxes the information contained on 2000 Form 8814 is reported on a form other than Form  
895 8814.

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

898 (i) the lesser of:

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

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

901 (I) the child's taxable interest;

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

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

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

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

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

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

915 (i) the entity; or

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

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

918 **Section 6. Effective date.**

919 If approved by two-thirds of all the members elected to each house, this bill takes effect

920 upon approval by the governor, or the day following the constitutional time limit of Utah  
921 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,  
922 the date of veto override.

923           **Section 7. Retrospective operation.**

924           This bill has retrospective operation for a taxable year beginning on or after January 1,  
925 2020.