

Senator Wayne A. Harper proposes the following substitute bill:

INCOME TAX AMENDMENTS

2020 SIXTH SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

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

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

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

- 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 state,
- 28 or a municipality within the state in response to COVID-19 using certain federal funds
- 29 is exempt from state individual income tax by creating a subtraction from adjusted
- 30 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



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** and

50 **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 requirements:

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

56 corporations in the group.

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

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

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

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

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

66 (6) "Captive insurance company" means the same as that term is defined in Section
67 31A-1-301.

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

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

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

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

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

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

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

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

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

82 or

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

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

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

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

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

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

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

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

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

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

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

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

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

102 (iii) a foreign real estate investment trust.

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

105 (10) "Corporate return" or "return" includes a combined report.

106 (11) "Corporation" includes:

107 (a) entities defined as corporations under Sections 7701(a) and 7704, Internal Revenue
108 Code; and

109 (b) other organizations that are taxed as corporations for federal income tax purposes
110 under the Internal Revenue Code.

111 (12) "COVID-19" means:

112 (a) the severe acute respiratory syndrome coronavirus 2; or

113 (b) the disease caused by severe acute respiratory syndrome coronavirus 2.

114 ~~[(12)]~~ (13) "Dividend" means any distribution, including money or other type of property,
115 made by a corporation to its shareholders out of its earnings or profits accumulated after
116 December 31, 1930.

117 ~~[(13)]~~ (14) (a) "Doing business" includes any transaction in the course of business by a

118 domestic corporation or by a foreign corporation qualified to do or doing business in this state.

119 (b) Except as provided in Subsection [~~(13)~~] (14)(c) or Subsection 59-7-102(3), "doing
120 business" includes:

121 (i) the right to do business through incorporation or qualification;

122 (ii) owning, renting, or leasing of real or personal property within this state;

123 (iii) the participation in joint ventures, working and operating agreements, the performance
124 of which takes place in this state;

125 (iv) selling or performing a service in this state; and

126 (v) earning income from the use of intangible property in this state.

127 (c) "Doing business" does not include the business activity of a corporation if the
128 corporation's only business activity within the state is the solicitation of orders for sales of tangible
129 personal property that are protected under 15 U.S.C. Secs. 381 through 384.

130 [~~(14)~~] (15) "Domestic corporation" means a corporation that is incorporated or organized
131 under the laws of this state.

132 [~~(15)~~] (16) "Exercising a corporate franchise" does not include the business activity of a
133 corporation if the corporation's only business activity within the state is the solicitation of orders
134 for sales of tangible personal property that are protected under 15 U.S.C. Secs. 381 through 384.

135 [~~(16)~~] (17) (a) "Farmers' cooperative" means an association, corporation, or other
136 organization that is:

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

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

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

141 (A) (I) market the products of members of the cooperative or the products of other
142 producers; and

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

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

148 (II) turn over the supplies and equipment described in Subsection [~~(16)~~] (17)(a)(ii)(B)(I)

149 at actual costs plus necessary expenses to the members of the cooperative or other persons.

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

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

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

156 (ii) The rules made under this Subsection [~~(16)~~] (17)(b) shall be consistent with the filing
157 requirements under federal law for a farmers' cooperative.

158 [~~(17)~~] (18) "Foreign corporation" means a corporation that is not incorporated or
159 organized under the laws of this state.

160 [~~(18)~~] (19) (a) "Foreign operating company" means a corporation that:

161 (i) is incorporated in the United States;

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

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

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

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

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

170 [~~(19)~~] (20) (a) "Foreign real estate investment trust" means:

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

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

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

175 (II) cash or cash equivalents; or

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

177 (B) the business entity is:

178 (I) not subject to income taxation:

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

180 (Bb) in the jurisdiction in which the business entity is organized; or
181 (II) exempt from income taxation on an entity level in the jurisdiction in which the
182 business entity is organized;
183 (C) the business entity distributes at least 85% of the business entity's taxable income, as
184 computed in the jurisdiction in which the business entity is organized, to the holders of the business
185 entity's:
186 (I) shares or beneficial interests; and
187 (II) on an annual basis;
188 (D) (I) not more than 10% of the following is held directly, indirectly, or constructively by
189 a single person:
190 (Aa) the voting power of the business entity; or
191 (Bb) the value of the shares or beneficial interests of the business entity; or
192 (II) the shares of the business entity are regularly traded on an established securities
193 market; and
194 (E) the business entity is organized in a country that has a tax treaty with the United
195 States; or
196 (ii) a listed Australian property trust.
197 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
198 commission may make rules defining:
199 (i) "cash or cash equivalents";
200 (ii) "established securities market"; or
201 (iii) "listed Australian property trust."
202 [~~(20)~~] (21) "Income" includes losses.
203 [~~(21)~~] (22) "Internal Revenue Code" means Title 26 of the United States Code as
204 effective during the year in which Utah taxable income is determined.
205 [~~(22)~~] (23) "Nonbusiness income" means the same as that term is defined in Section
206 59-7-302.
207 [~~(23)~~] (24) "Real estate investment trust" means the same as that term is defined in
208 Section 856, Internal Revenue Code.
209 [~~(24)~~] (25) "Related expenses" means:
210 (a) expenses directly attributable to nonbusiness income; and

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

216 [~~(25)~~] (26) "S corporation" means an S corporation as defined in Section 1361, Internal
217 Revenue Code.

218 [~~(26)~~] (27) "Safe harbor lease" means a lease that qualified as a safe harbor lease under
219 Section 168, Internal Revenue Code.

220 [~~(27)~~] (28) "State of the United States" includes any of the 50 states or the District of
221 Columbia.

222 [~~(28)~~] (29) (a) "Taxable year" means the calendar year or the fiscal year ending during
223 such calendar year upon the basis of which the adjusted income is computed.

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

227 [~~(29)~~] (30) "Taxpayer" means any corporation subject to the tax imposed by this chapter.

228 [~~(30)~~] (31) "Threshold level of business activity" means business activity in the United
229 States equal to or greater than 20% of the corporation's total business activity as determined
230 under Section 59-7-401.

231 [~~(31)~~] (32) (a) "Unadjusted income" means federal taxable income as determined on a
232 separate return basis before intercompany eliminations as determined by the Internal Revenue
233 Code, before the net operating loss deduction and special deductions for dividends received.

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

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

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

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

240 (A) authorized by the federal government;

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

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

243 (D) exempt from federal income tax, to the extent that a deduction for the expenditures

244 paid with the loan is disallowed.

245 [~~32~~] (33) (a) "Unitary group" means a group of corporations that:

246 (i) are related through common ownership; and

247 (ii) by a preponderance of the evidence as determined by a court of competent

248 jurisdiction or the commission, are economically interdependent with one another as demonstrated

249 by the following factors:

250 (A) centralized management;

251 (B) functional integration; and

252 (C) economies of scale.

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

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

255 [~~33~~] (34) "United States" includes the 50 states and the District of Columbia.

256 [~~34~~] (35) "Utah net loss" means the current year Utah taxable income before Utah net
257 loss deduction, if determined to be less than zero.

258 [~~35~~] (36) "Utah net loss deduction" means the amount of Utah net losses from other
259 taxable years that a taxpayer may carry forward to the current taxable year in accordance with
260 Section 59-7-110.

261 [~~36~~] (37) (a) "Utah taxable income" means Utah taxable income before net loss
262 deduction less Utah net loss deduction.

263 (b) "Utah taxable income" includes income from tangible or intangible property located or
264 having situs in this state, regardless of whether carried on in intrastate, interstate, or foreign
265 commerce.

266 [~~37~~] (38) "Utah taxable income before net loss deduction" means apportioned income
267 plus nonbusiness income allocable to Utah net of related expenses.

268 [~~38~~] (39) (a) "Water's edge combined report" means a report combining the income and
269 activities of:

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

271 (A) corporations organized or incorporated in the United States, including those

272 corporations qualifying for the Puerto Rico and Possession Tax Credit as provided in Section 936,

273 Internal Revenue Code, in accordance with Subsection [~~(38)~~] (39)(b); and

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

276 (ii) an affiliated group electing to file a water's edge combined report under Subsection
277 59-7-402(2).

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

281 [~~(39)~~] (40) "Worldwide combined report" means the combination of the income and
282 activities of all members of a unitary group irrespective of the country in which the corporations
283 are incorporated or conduct business activity.

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

285 **59-7-106. Subtractions from unadjusted income.**

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

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

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

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

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

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

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

303 (g) the safe harbor lease adjustment required under Subsections 59-7-111(1)(b) and

304 (2)(b);

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

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

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

310 (A) doing business; or

311 (B) exercising a corporate franchise;

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

313 (A) Utah;

314 (B) another state of the United States;

315 (C) a foreign country;

316 (D) a United States possession; or

317 (E) the Commonwealth of Puerto Rico; and

318 (iii) to the extent that tax was added to unadjusted income under Section 59-7-105;

319 (j) a charitable contribution, to the extent the charitable contribution is allowed as a
320 subtraction under Section 59-7-109;

321 (k) subject to Subsection (3), 50% of a dividend considered to be received or received
322 from a subsidiary that:

323 (i) is a member of the unitary group;

324 (ii) is organized or incorporated outside of the United States; and

325 (iii) is not included in a combined report under Section 59-7-402 or 59-7-403;

326 (l) subject to Subsection (4) and Section 59-7-401, 50% of the adjusted income of a
327 foreign operating company;

328 (m) the amount of gain or loss that is included in unadjusted income but not recognized for
329 federal purposes on stock sold or exchanged by a member of a selling consolidated group as
330 defined in Section 338, Internal Revenue Code, if an election has been made in accordance with
331 Section 338(h)(10), Internal Revenue Code;

332 (n) the amount of gain or loss that is included in unadjusted income but not recognized for
333 federal purposes on stock sold, exchanged, or distributed by a corporation in accordance with
334 Section 336(e), Internal Revenue Code, if an election under Section 336(e), Internal Revenue

335 Code, has been made for federal purposes;

336 (o) subject to Subsection (5), an adjustment to the following due to a difference between
337 basis for federal purposes and basis as computed under Section 59-7-107:

338 (i) an amortization expense;

339 (ii) a depreciation expense;

340 (iii) a gain;

341 (iv) a loss; or

342 (v) an item similar to Subsections (1)(o)(i) through (iv);

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

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

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

348 (ii) under common ownership;

349 (r) subject to Subsection 59-7-105(10), for a corporation that is an account owner as
350 defined in Section 53B-8a-102, the amount of a qualified investment as defined in Section
351 53B-8a-102.5:

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

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

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

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

364 (t) for purposes of income included in a combined report under Part 4, Combined
365 Reporting, the entire amount of the dividends a member of a unitary group receives or is

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

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

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

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

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

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

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

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

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

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

385 (A) authorized by the federal government;

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

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

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

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

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

396 (B) are funded using federal revenue received by the state, the county, or the municipality

397 to respond to COVID-19; and

398 (C) are included in unadjusted income.

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

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

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

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

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

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

405 (ii) carried forward as provided in Sections 1212(a)(1)(B) and (C), Internal Revenue
406 Code.

407 (3) (a) For purposes of calculating the subtraction provided for in Subsection (1)(k), a
408 taxpayer shall first subtract from a dividend considered to be received or received an expense
409 directly attributable to that dividend.

410 (b) For purposes of Subsection (3)(a), the amount of an interest expense that is
411 considered to be directly attributable to a dividend is calculated by multiplying the interest expense
412 by a fraction:

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

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

416 (c) (i) For purposes of calculating the subtraction allowed by Subsection (1)(k), in
417 determining income apportionable to this state, a portion of the factors of a foreign subsidiary that
418 has dividends that are partially subtracted under Subsection (1)(k) shall be included in the
419 combined report factors as provided in this Subsection (3)(c).

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

424 (A) not to exceed 100%; and

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

427 (II) the denominator of which is the current year earnings and profits of the foreign

428 subsidiary as determined under the Internal Revenue Code.

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

431 (i) if the taxpayer elects to file a worldwide combined report as provided in Section
432 59-7-403; or

433 (ii) for the following:

434 (A) income generated from intangible property; or

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

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

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

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

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

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

448 (i) income generated from intangible property; or

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

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

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

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

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

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

460 **59-7-402. Water's edge combined report.**

461 (1) Except as provided in Section 59-7-403, if any corporation listed in Subsection
462 59-7-101[(38)](39)(a) is doing business in Utah, the unitary group shall file a water's edge
463 combined report.

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

466 (i) doing business in Utah;

467 (ii) part of the same affiliated group; and

468 (iii) qualified, under Section 1501, Internal Revenue Code, to file a federal consolidated
469 return.

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

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

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

476 **59-10-103. Definitions.**

477 (1) As used in this chapter:

478 (a) (i) "Adjusted gross income":

479 [(i)] (A) for a resident or nonresident individual, ~~[is as defined]~~ means the same as that
480 term is defined in Section 62, Internal Revenue Code; or

481 [(ii)] (B) for a resident or nonresident estate or trust, is as calculated in Section 67(e),
482 Internal Revenue Code.

483 (ii) "Adjusted gross income" does not include:

484 (A) income received from a loan forgiven in accordance with 15 U.S.C. Sec. 636(a) (36),
485 to the extent that a deduction for the expenditures paid with the loan is disallowed, or a similar
486 paycheck protection loan that is authorized by the federal government, provided in response to
487 COVID-19, forgiven if the borrower meets the expenditure requirements, and exempt from
488 federal income tax, to the extent that a deduction for the expenditures paid with the loan is

489 disallowed; or

490 (B) an amount that an individual receives in accordance with Section 6428, Internal
491 Revenue Code, or an amount that an individual receives that is authorized by the federal
492 government as a tax credit for the 2020 tax year, provided in response to COVID-19, paid in
493 advance of the filing of the individual's 2020 federal income tax return, and exempt from federal
494 income tax.

495 (b) "Corporation" includes:

496 (i) an association;

497 (ii) a joint stock company; and

498 (iii) an insurance company.

499 (c) "COVID 19" means:

500 (i) the severe acute respiratory syndrome coronavirus 2; or

501 (ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

502 ~~[(c)]~~ (d) "Distributable net income" [is as defined] means the same as that term is defined
503 in Section 643, Internal Revenue Code.

504 ~~[(d)]~~ (e) "Employee" [is as defined] means the same as that term is defined in Section
505 59-10-401.

506 ~~[(e)]~~ (f) "Employer" [is as defined] means the same as that term is defined in Section
507 59-10-401.

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

509 (i) for a resident or nonresident individual, means taxable income as defined by Section
510 63, Internal Revenue Code; or

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

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

514 (i) a guardian;

515 (ii) a trustee;

516 (iii) an executor;

517 (iv) an administrator;

518 (v) a receiver;

519 (vi) a conservator; or

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

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

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

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

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

531 ~~[(l)]~~ (m) "Military service" ~~[is as defined]~~ means the same as that term is defined in Pub.
532 L. No. 108-189, Sec. 101.

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

534 ~~[(n)]~~ (o) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a
535 resident estate or trust.

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

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

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

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

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

544 ~~[(III)] a corporation.~~

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

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

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

550 (i) that is irrevocable;

551 (ii) that has a trust term measured by:
552 (A) a fixed term of years; or
553 (B) the life of a person living on the day on which the trust is created;
554 (iii) under which:
555 (A) a portion of the value of the trust assets is distributed during the trust term:
556 (I) to an organization described in Section 170(c), Internal Revenue Code; and
557 (II) as a ~~guaranteed annuity interest or a unitrust interest; and~~
558 ~~[(Aa) guaranteed annuity interest; or]~~
559 ~~[(Bb) unitrust interest; and]~~
560 (B) assets remaining in the trust at the termination of the trust term are distributed to a

561 beneficiary:
562 (I) designated in the trust; and
563 (II) that is not an organization described in Section 170(c), Internal Revenue Code;
564 (iv) for which the trust is allowed a deduction under Section 642(c), Internal Revenue
565 Code; and
566 (v) under which the grantor of the trust is not treated as the owner of any portion of the
567 trust for federal income tax purposes.

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

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

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

575 ~~[(t)]~~ (u) "State income tax percentage for a nonresident estate or trust" means a
576 percentage equal to a nonresident estate's or trust's state taxable income for the taxable year
577 divided by the nonresident estate's or trust's total adjusted gross income for that taxable year after
578 making the adjustments required by:

579 (i) Section 59-10-202;
580 (ii) Section 59-10-207;
581 (iii) Section 59-10-209.1; or

582 (iv) Section 59-10-210.

583 ~~[(v)]~~ (v) "State income tax percentage for a nonresident individual" means a percentage
584 equal to a nonresident individual's state taxable income for the taxable year divided by the
585 difference between:

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

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

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

590 (ii) if the nonresident individual described in Subsection (1)~~[(v)]~~(v)(i) is a servicemember,
591 the compensation the servicemember receives for military service if the servicemember is serving
592 in compliance with military orders.

593 ~~[(w)]~~ (w) "State income tax percentage for a part-year resident individual" means, for a
594 taxable year, a fraction:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

637 (ii) ending on the day on which the qualified nongrantor charitable lead trust described in
638 Subsection (1)~~[(y)]~~(z)(i) terminates.

639 ~~[(z)]~~ (aa) "Uintah and Ouray Reservation" means the lands recognized as being included
640 within the Uintah and Ouray Reservation in:

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

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

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

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

647 (ii) the sum of the following:

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

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

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

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

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

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

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

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

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

667 ~~[(ee)]~~ (ff) "Wages" ~~[is as defined]~~ means the same as that term is defined in Section
668 59-10-401.

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

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

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

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

679 **59-10-114. Additions to and subtractions from adjusted gross income of an**
680 **individual.**

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

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

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

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

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

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

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

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

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

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

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

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

705 (i) is not expended for:

- 706 (A) higher education costs as defined in Section 53B-8a-102.5; or
- 707 (B) a payment or distribution that qualifies as an exception to the additional tax for
- 708 distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal
- 709 Revenue Code; and
- 710 (ii) is:
 - 711 (A) subtracted by the resident or nonresident individual:
 - 712 (I) who is the account owner; and
 - 713 (II) on the resident or nonresident individual's return filed under this chapter for a taxable
 - 714 year beginning on or before December 31, 2007; or
 - 715 (B) used as the basis for the resident or nonresident individual who is the account owner
 - 716 to claim a tax credit under Section 59-10-1017;
 - 717 (e) except as provided in Subsection (5), for bonds, notes, and other evidences of
 - 718 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other
 - 719 evidences of indebtedness:
 - 720 (i) issued by one or more of the following entities:
 - 721 (A) a state other than this state;
 - 722 (B) the District of Columbia;
 - 723 (C) a political subdivision of a state other than this state; or
 - 724 (D) an agency or instrumentality of an entity described in Subsections (1)(e)(i)(A)
 - 725 through (C); and
 - 726 (ii) to the extent the interest is not included in adjusted gross income on the taxpayer's
 - 727 federal income tax return for the taxable year;
 - 728 (f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a
 - 729 resident trust of income that was taxed at the trust level for federal tax purposes, but was
 - 730 subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);
 - 731 (g) any distribution received by a resident beneficiary of a nonresident trust of
 - 732 undistributed distributable net income realized by the trust on or after January 1, 2004, if that
 - 733 undistributed distributable net income was taxed at the trust level for federal tax purposes, but
 - 734 was not taxed at the trust level by any state, with undistributed distributable net income considered
 - 735 to be distributed from the most recently accumulated undistributed distributable net income; and
 - 736 (h) any adoption expense:

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

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

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

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

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

746 (a) the difference between:

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

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

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

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

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

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

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

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

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

763 (A) a state; or

764 (B) the District of Columbia; and

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

768 (d) the amount of a railroad retirement benefit:
769 (i) paid:
770 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et
771 seq.;

772 (B) to a resident or nonresident individual; and
773 (C) for the taxable year; and
774 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on
775 that resident or nonresident individual's federal individual income tax return for that taxable year;

776 (e) an amount:
777 (i) received by an enrolled member of an American Indian tribe; and
778 (ii) to the extent that the state is not authorized or permitted to impose a tax under this
779 part on that amount in accordance with:

780 (A) federal law;
781 (B) a treaty; or
782 (C) a final decision issued by a court of competent jurisdiction;

783 (f) an amount received:
784 (i) for the interest on a bond, note, or other obligation issued by an entity for which state
785 statute provides an exemption of interest on its bonds from state individual income tax;
786 (ii) by a resident or nonresident individual;
787 (iii) for the taxable year; and
788 (iv) to the extent the amount is included in adjusted gross income on the taxpayer's
789 federal income tax return for the taxable year;

790 (g) the amount of all income, including income apportioned to another state, of a
791 nonmilitary spouse of an active duty military member if:
792 (i) both the nonmilitary spouse and the active duty military member are nonresident
793 individuals;
794 (ii) the active duty military member is stationed in Utah;
795 (iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec.
796 4001(a)(2); and
797 (iv) the income is included in adjusted gross income for federal income tax purposes for
798 the taxable year;

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

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

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

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

810 (j) for a taxable year beginning on or after January 1, 2020, but beginning on or before
811 December 31, 2020, the amount ~~[of]~~:

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

814 (A) authorized by the federal government;

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

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

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

819 (ii) that a resident or a nonresident individual receives that is:

820 (A) authorized by the federal government as a tax credit for the 2020 tax year;

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

822 (C) paid in advance of the filing of the individual's 2020 federal income tax return; and

823 (D) subject to federal income tax; and

824 (iii) of any grant funds [the resident or nonresident individual receives under Title 9,
825 Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program, Subsection 63N-12-508(3), or
826 Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, to the extent that the grant
827 funds are included in adjusted gross income] or forgiven loans that:

828 (A) the resident or nonresident individual receives from the state, a county within the
829 state, or a municipality within the state in response to COVID-19;

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

832 (C) are included in adjusted gross income.

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

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

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

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

838 (i) may not:

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

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

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

843 (ii) shall:

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

845 (B) be in writing;

846 (C) be signed by:

847 (I) the governor; and

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

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

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

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

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

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

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

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

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

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

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

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

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

875 (i) the lesser of:

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

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

878 (I) the child's taxable interest;

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

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

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

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

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

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

892 (i) the entity; or

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

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

895 Section 6. **Effective date.**

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

897 upon approval by the governor, or the day following the constitutional time limit of Utah

898 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the

899 date of veto override.

900 Section 7. **Retrospective operation.**

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

902 2020.