

RETIREMENT INCOME TAX AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Candice B. Pierucci

LONG TITLE

Committee Note:

The Revenue and Taxation Interim Committee recommended this bill.

Legislative Vote: 14 voting for 0 voting against 5 absent

General Description:

This bill creates an individual income tax credit for certain social security benefits and an individual income tax credit for military retirement pay.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ enacts a tax credit for social security benefits that are included in the claimant's federal adjusted gross income;
- ▶ provides that an individual who claims the tax credit for social security benefits may not also claim the retirement tax credit;
- ▶ creates a nonrefundable individual income tax credit for military retirement pay;
- ▶ provides that an individual who claims the tax credit for military retirement pay may not also claim the retirement tax credit; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



28 This bill provides retrospective operation.

29 **Utah Code Sections Affected:**

30 AMENDS:

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

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

33 ENACTS:

34 **59-10-1042**, Utah Code Annotated 1953

35 **59-10-1043**, Utah Code Annotated 1953



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

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

39 **59-10-1002.2. Apportionment of tax credits.**

40 (1) A nonresident individual or a part-year resident individual that claims a tax credit
41 in accordance with Section **59-10-1017**, **59-10-1018**, **59-10-1019**, **59-10-1022**, **59-10-1023**,
42 **59-10-1024**, [or] **59-10-1028**, **59-10-1042**, or **59-10-1043** may only claim an apportioned
43 amount of the tax credit equal to:

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

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

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

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

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

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

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

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

56 (b) the amount of the tax credit that the nonresident estate or trust would have been
57 allowed to claim but for the apportionment requirements of this section.

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

59 **59-10-1019. Definitions -- Nonrefundable retirement tax credits.**

60 (1) As used in this section:

61 (a) "Eligible [~~age 65 or older retiree~~] claimant" means a claimant, regardless of whether
62 that claimant is retired, who~~[:]~~ was born on or before December 31, 1952.63 [~~(i) is 65 years of age or older; and]~~64 [~~(ii) was born on or before December 31, 1952;]~~65 [~~(b) (i) "Eligible retirement income" means income received by an eligible under age
66 65 retiree as a pension or annuity if that pension or annuity is:]~~67 [~~(A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible
68 under age 65 retiree; and]~~69 [~~(B) (I) paid from an annuity contract purchased by an employer under a plan that
70 meets the requirements of Section 404(a)(2), Internal Revenue Code;]~~71 [~~(II) purchased by an employee under a plan that meets the requirements of Section
72 408, Internal Revenue Code; or]~~73 [~~(III) paid by:]~~74 [~~(Aa) the United States;]~~75 [~~(Bb) a state or a political subdivision of a state; or]~~76 [~~(Cc) the District of Columbia;]~~77 [~~(ii) "Eligible retirement income" does not include amounts received by the spouse of a
78 living eligible under age 65 retiree because of the eligible under age 65 retiree's having been
79 employed in a community property state.]~~80 [~~(c) "Eligible under age 65 retiree" means a claimant, regardless of whether that
81 claimant is retired, who:]~~82 [~~(i) is younger than 65 years of age;]~~83 [~~(ii) was born on or before December 31, 1952; and]~~84 [~~(iii) has eligible retirement income for the taxable year for which a tax credit is
85 claimed under this section.]~~86 [~~(d)~~] (b) "Head of household filing status" [~~is as~~] means the same as that term is
87 defined in Section 59-10-1018.88 [~~(e)~~] (c) "Joint filing status" [~~is as~~] means the same as that term is defined in Section
89 59-10-1018.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

115 (3) (a) An eligible claimant may not:

116 (i) carry forward or carry back the amount of a tax credit under this section that
117 exceeds the eligible claimant's tax liability for the taxable year; or

118 (ii) claim a tax credit under this section and a tax credit under Section 59-10-1042 or
119 59-10-1043.

120 (b) An eligible claimant who qualifies for a tax credit under this section and a tax

121 credit under Section 59-10-1042 or 59-10-1043 may elect whether to claim a tax credit under
 122 this section or a tax credit under Section 59-10-1042 or 59-10-1043.

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

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

128 (b) for a federal individual income tax return that is allowed a single filing status,
 129 \$25,000;

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

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

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

137 Section 3. Section **59-10-1042** is enacted to read:

138 **59-10-1042. Nonrefundable tax credit for social security benefits.**

139 (1) As used in this section:

140 (a) "Head of household filing status" means the same as that term is defined in Section
 141 59-10-1018.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

165 (i) carry forward or carry back the amount of a tax credit under this section that
166 exceeds the claimant's tax liability for the taxable year; or

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

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

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

174 (a) for a federal individual income tax return that is allowed a married filing separately
175 status, \$24,000;

176 (b) for a federal individual income tax return that is allowed a single filing status,
177 \$30,000;

178 (c) for a federal individual income tax return that is allowed a head of household filing
179 status, \$48,000; or

180 (d) for a return under this chapter that is allowed a joint filing status, \$48,000.

181 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
182 commission may make rules governing the calculation and method for claiming the tax credit

183 described in this section.

184 Section 4. Section **59-10-1043** is enacted to read:

185 **59-10-1043. Nonrefundable tax credit for military retirement.**

186 (1) As used in this section:

187 (a) "Military retirement pay" means retirement pay that relates to service in the armed
188 forces, including service in the National Guard or military reserves.

189 (b) "Military retirement pay" does not include:

190 (i) Social security income; or

191 (ii) 401 (k) or IRA distributions.

192 (2) Except as provided in Section [59-10-1002.2](#), a claimant who receives military
193 retirement pay may claim a nonrefundable tax credit against taxes otherwise due under this part
194 equal to the product of:

195 (a) the percentage listed in Subsection [59-10-104\(2\)](#); and

196 (b) the military retirement pay that is included in adjusted gross income on the
197 claimant's federal income tax return for the taxable year.

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

199 (i) carry forward or carry back the amount of a tax credit under this section that
200 exceeds the claimant's tax liability for the taxable year; or

201 (ii) claim a tax credit under this section and a tax credit under Section [59-10-1019](#).

202 (b) A claimant that qualifies for a tax credit under this section and a tax credit under
203 Section [59-10-1019](#) may elect whether to claim a tax credit under this section or a tax credit
204 under Section [59-10-1019](#).

205 Section 5. **Retrospective operation.**

206 This bill has retrospective operation for a taxable year beginning on or after January 1,
207 2021.