

Senator Daniel McCay proposes the following substitute bill:

TAX REVISIONS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

House Sponsor: Mark A. Strong

LONG TITLE

General Description:

This bill modifies provisions related to income tax and sales and use tax.

Highlighted Provisions:

This bill:

- ▶ updates the language that the State Tax Commission prints on certain documents related to individual income tax returns;
- ▶ clarifies that when a tax credit that allows a carry forward expires or is repealed, the applicable carry forward remains in effect;
- ▶ provides that a claimant may not claim a social security tax credit or a military retirement tax credit, if a retirement tax credit is claimed on the same return;
- ▶ enacts a refund of state sales and use tax paid for the purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an oil and gas extraction establishment or a pipeline transportation establishment; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 This bill provides a special effective date.

27 This bill provides retrospective operation.

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **59-10-103.1**, as last amended by Laws of Utah 2011, Chapter 410

31 **59-10-1019**, as last amended by Laws of Utah 2021, Chapters 68 and 428

32 **59-10-1042**, as enacted by Laws of Utah 2021, Chapter 428

33 **59-10-1043**, as enacted by Laws of Utah 2021, Chapter 68

34 ENACTS:

35 **59-7-538**, Utah Code Annotated 1953

36 **59-10-552**, Utah Code Annotated 1953

37 **59-12-104.8**, Utah Code Annotated 1953



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

40 Section 1. Section **59-7-538** is enacted to read:

41 **59-7-538. Carry forward of expired or repealed tax credit.**

42 When a nonrefundable corporate income tax credit under Part 6, Credits, expires or is
43 repealed, the commission shall allow a taxpayer to carry forward any amount of the tax credit
44 that remains for the period of time described in the tax credit for the taxable year in which the
45 taxpayer first claimed the tax credit.

46 Section 2. Section **59-10-103.1** is amended to read:

47 **59-10-103.1. Information to be contained on individual income tax returns or**
48 **booklets.**

49 (1) The commission shall print the phrase "all state income tax dollars [~~fund education~~]
50 support education, children, and individuals with disabilities" on:

- 51 (a) the first page of an individual income tax return; and
- 52 (b) the cover page of an individual income tax forms and instructions booklet.

53 (2) The commission shall include on an individual income tax return a statement for a
54 property owner to declare that the property owner no longer qualifies to receive a residential
55 exemption authorized under Section **59-2-103** for that property owner's primary residence.

56 Section 3. Section **59-10-552** is enacted to read:

57 **59-10-552. Carry forward of expired or repealed tax credit.**

58 When a nonrefundable individual income tax credit, under Part 10, Nonrefundable Tax
59 Credit Act, expires or is repealed, the commission shall allow a claimant, estate, or trust to
60 carry forward any amount of the tax credit that remains for the period of time described in the
61 tax credit for the taxable year in which the estate, claimant, or estate first claimed the tax credit.

62 Section 4. Section **59-10-1019** is amended to read:

63 **59-10-1019. Definitions -- Nonrefundable retirement tax credit.**

64 (1) As used in this section:

65 (a) "Eligible claimant" means a claimant, regardless of whether that claimant is retired,
66 who was born on or before December 31, 1952.

67 (b) "Head of household filing status" means the same as that term is defined in Section
68 **59-10-1018**.

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

70 (d) "Married filing separately status" means a married individual who:

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

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

74 (e) "Modified adjusted gross income" means the sum of the following for an eligible
75 claimant or, if the eligible claimant's return under this chapter is allowed a joint filing status,
76 the eligible claimant and the eligible claimant's spouse:

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

79 (ii) any interest income that is not included in adjusted gross income for the taxable
80 year described in Subsection (1)(e)(i); and

81 (iii) any addition to adjusted gross income required by Section **59-10-114** for the
82 taxable year described in Subsection (1)(e)(i).

83 (f) "Single filing status" means a single individual who files a single federal individual
84 income tax return for the taxable year.

85 (2) Except as provided in Section **59-10-1002.2** and Subsections (3) and (4), each
86 eligible claimant may claim a nonrefundable tax credit of \$450 against taxes otherwise due
87 under this part.

88 (3) ~~(a)~~ An eligible claimant may not:

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

91 ~~(ii)~~ (b) claim a tax credit under this section ~~and~~ for a taxable year if a tax credit
92 under Section 59-10-1042 or 59-10-1043 is claimed on the claimant's return for the same
93 taxable year.

94 ~~[(b) An eligible claimant who qualifies for a tax credit under this section and a tax~~
95 ~~credit under Section 59-10-1042 or 59-10-1043 may elect whether to claim a tax credit under~~
96 ~~this section or a tax credit under Section 59-10-1042 or 59-10-1043.]~~

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

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

102 (b) for a federal individual income tax return that is allowed a single filing status,
103 \$25,000;

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

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

107 Section 5. Section 59-10-1042 is amended to read:

108 **59-10-1042. Nonrefundable tax credit for social security benefits.**

109 (1) As used in this section:

110 (a) "Head of household filing status" means the same as that term is defined in Section
111 59-10-1018.

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

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

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

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

117 (d) "Modified adjusted gross income" means the sum of the following for a claimant
118 or, if the claimant's return under this chapter is allowed a joint filing status, the claimant and

119 the claimant's spouse:

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

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

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

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

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

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

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

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

136 (3) ~~(a)~~ A claimant may not:

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

139 ~~(ii)~~ (b) claim a tax credit under this section ~~and~~ for a taxable year if a tax credit
140 under Section 59-10-1019 is claimed on the claimant's return for the same taxable year.

141 ~~(b) A claimant that qualifies for a tax credit under this section and a tax credit under~~
142 ~~Section 59-10-1019 may elect whether to claim a tax credit under this section or a tax credit~~
143 ~~under Section 59-10-1019.]~~

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

147 (a) for a federal individual income tax return that is allowed a married filing separately
148 status, \$25,000;

149 (b) for a federal individual income tax return that is allowed a single filing status,

150 \$30,000;

151 (c) for a federal individual income tax return that is allowed a head of household filing
152 status, \$50,000; or

153 (d) for a return under this chapter that is allowed a joint filing status, \$50,000.

154 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
155 commission may make rules governing the calculation and method for claiming the tax credit
156 described in this section.

157 Section 6. Section **59-10-1043** is amended to read:

158 **59-10-1043. Nonrefundable tax credit for military retirement.**

159 (1) As used in this section:

160 ~~[(a)]~~ (a) (i) "Military retirement pay" means retirement pay, including survivor benefits,
161 that relates to service in the armed forces ~~[including service in the Reserves or the National~~
162 ~~Guard]~~ or the reserve components, as described in 10 U.S.C. Sec. 10101.

163 (ii) "Military retirement pay" does not include:

164 (A) Social Security income;

165 (B) 401(k) or IRA distributions; or

166 (C) income from other sources.

167 (b) "Survivor benefits" means the retired pay portion of the benefits described in 10
168 U.S.C. Secs. 1447 through 1455.

169 (2) Except as provided in Section **59-10-1002.2**, a claimant who receives military
170 retirement pay may claim a nonrefundable tax credit against taxes equal to the product of:

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

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

174 (3) ~~[(a)]~~ A claimant may not:

175 ~~[(a)]~~ (a) carry forward or carry back the amount of a tax credit that exceeds the
176 claimant's tax liability for the taxable year; or

177 ~~[(b)]~~ (b) claim a tax credit under this section ~~[and]~~ for a taxable year if a tax credit
178 under Section **59-10-1019** is claimed on the claimant's return for the same taxable year.

179 ~~[(b)]~~ A claimant that qualifies for a tax credit under this section and a tax credit under
180 Section **59-10-1019** may elect whether to claim a tax credit under this section or a tax credit

181 ~~under Section 59-10-1019:]~~

182 Section 7. Section 59-12-104.8 is enacted to read:

183 **59-12-104.8. Refund for state sales and use tax on purchases or lease of**
184 **machinery, equipment, normal operating repair or replacement parts, and materials by**
185 **an oil and gas extraction establishment.**

186 (1) This section applies to amounts paid or charged for a purchase or lease of
187 machinery, equipment, normal operating repair or replacement parts, or materials, except for
188 office equipment or office supplies, by an establishment, as the commission defines that term
189 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

190 (a) is described in NAICS Subsector 211, Oil and Gas Extraction, or NAICS Code
191 213111, Drilling Oil and Gas Wells, NAICS Code 213112, Support Activities for Oil and Gas
192 Operations, NAICS Code 486110, Pipeline Transportation of Crude Oil, or NAICS Code
193 486210, Pipeline Transportation of Natural Gas, of the 2017 North American Industry
194 Classification System of the federal Executive Office of the President, Office of Management
195 and Budget;

196 (b) is located in the state; and

197 (c) uses or consumes the machinery, equipment, normal operating repair or
198 replacement parts, or materials in:

199 (i) the production process to produce an item sold as tangible personal property, as the
200 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
201 Administrative Rulemaking Act;

202 (ii) research and development, as the commission may define that phrase in accordance
203 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

204 (iii) transporting, storing, or managing crude oil, natural gas, or refined petroleum
205 products;

206 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in oil
207 or gas extraction; or

208 (v) preventing, controlling, or reducing dust or other pollutants from oil or gas
209 extraction.

210 (2) (a) A person may request a refund from the commission for the sales and use tax
211 paid on a purchase or lease described in Subsection (1).

212 (b) The amount of the refund is as follows:
213 (i) for a purchase or lease made on or after January 1, 2024, but on or before December
214 31, 2024, 33% of sales and use tax paid under Subsection [59-12-103\(2\)\(a\)\(i\)\(A\)](#);
215 (ii) for a purchase or lease made on or after January 1, 2025, but on or before
216 December 31, 2025, 66% of the sales and use tax paid under Subsection [59-12-103\(2\)\(a\)\(i\)\(A\)](#);
217 and
218 (iii) for a purchase or lease made on or after January 1, 2026, 100% of the sales and use
219 tax paid under Subsection [59-12-103\(2\)\(a\)\(i\)\(A\)](#).
220 (c) A person shall file for a refund under this Subsection (2):
221 (i) in an electronic format prescribed by the commission; and
222 (ii) no more frequently than once per quarter.
223 (3) The commission may calculate and retain from each refund issued under this
224 section an amount to cover the commission's actual cost of administering the refund.
225 (4) The provisions of this section apply beginning on January 1, 2024.
226 **Section 8. Effective date.**
227 If approved by two-thirds of all the members elected to each house, this bill takes effect
228 upon approval by the governor, or the day following the constitutional time limit of Utah
229 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
230 the date of veto override.
231 **Section 9. Retrospective operation.**
232 The changes to Sections [59-10-1019](#), [59-10-1042](#), and [59-10-1043](#) have retrospective
233 operation for a taxable year beginning on or after January 1, 2021.