

SB0048S02 compared with SB0048S01

~~text~~ shows text that was in SB0048S01 but was deleted in SB0048S02.

text shows text that was not in SB0048S01 but was inserted into SB0048S02.

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Senator Daniel McCay proposes the following substitute bill:

~~INCOME~~TAX ~~MODIFICATIONS~~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- ▶ clarifies that when a tax credit that allows a carry forward expires or is repealed, the applicable carry forward remains in effect;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.

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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:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

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

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

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

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

ENACTS:

59-7-538, Utah Code Annotated 1953

59-10-552, Utah Code Annotated 1953

59-12-104.8, Utah Code Annotated 1953

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

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

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 **Carry forward of expired or repealed tax credit.**

When a nonrefundable corporate income tax credit under Part 6, Credits, expires or is repealed, the commission shall allow a taxpayer to carry forward any amount of the tax credit that remains for the period of time described in the tax credit for the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

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

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

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

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

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

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

(iii) any addition to adjusted gross income required by Section 59-10-114 for the

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taxable year described in Subsection (1)(e)(i).

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

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

(3) ~~[(a)]~~ An eligible claimant may not:

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

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

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

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

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

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) As used in this section:

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

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

(A) Social Security income;

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

(C) income from other sources.

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

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

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

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

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

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

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

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

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

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

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

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

(b) is located in the state; and

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

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

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

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

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

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

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

(b) The amount of the refund is as follows:

(i) for a purchase or lease made on or after January 1, 2024, but on or before December 31, 2024, 33% of sales and use tax paid under Subsection 59-12-103(2)(a)(i)(A);

(ii) for a purchase or lease made on or after January 1, 2025, but on or before December 31, 2025, 66% of the sales and use tax paid under Subsection 59-12-103(2)(a)(i)(A);
and

(iii) for a purchase or lease made on or after January 1, 2026, 100% of the sales and use tax paid under Subsection 59-12-103(2)(a)(i)(A).

(c) A person shall file for a refund under this Subsection (2):

(i) in an electronic format prescribed by the commission; and

(ii) no more frequently than once per quarter.

(3) The commission may calculate and retain from each refund issued under this section an amount to cover the commission's actual cost of administering the refund.

(4) The provisions of this section apply beginning on January 1, 2024.

Section ~~{7}~~8. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section ~~{8}~~9. Retrospective operation.

The changes to Sections 59-10-1019, 59-10-1042, and 59-10-1043 have retrospective operation for a taxable year beginning on or after January 1, 2021.