

**SOCIAL SECURITY TAX AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE**

**General Description:**

This bill provides for an individual income tax credit for certain social security benefits.

**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;
- ▶ grants rulemaking authority to the State Tax Commission; and
- ▶ makes technical and conforming changes.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 This bill provides retrospective operation.

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **59-10-1002.2**, as last amended by Laws of Utah 2016, Chapter 263

36 **59-10-1019**, as renumbered and amended by Laws of Utah 2008, Chapter 389

37 ENACTS:

38 **59-10-1042**, Utah Code Annotated 1953



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

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

42 **59-10-1002.2. Apportionment of tax credits.**

43 (1) A nonresident individual or a part-year resident individual that claims a tax credit  
44 in accordance with Section **59-10-1017**, **59-10-1018**, **59-10-1019**, **59-10-1022**, **59-10-1023**,  
45 **59-10-1024**, [~~or~~] **59-10-1028**, or **59-10-1042** may only claim an apportioned amount of the tax  
46 credit equal to:

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

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

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

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

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

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

55 (2) A nonresident estate or trust that claims a tax credit in accordance with Section  
56 **59-10-1017**, **59-10-1020**, **59-10-1022**, **59-10-1024**, or **59-10-1028** may only claim an

57 apportioned amount of the tax credit equal to the product of:

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

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

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

62 **59-10-1019. Definitions -- Nonrefundable retirement tax credit.**

63 (1) As used in this section:

64 (a) "Eligible ~~[age 65 or older retiree]~~ claimant" means a claimant, regardless of whether  
65 that claimant is retired, who~~[:]~~ was born on or before December 31, 1952.

66 ~~[(i) is 65 years of age or older; and]~~

67 ~~[(ii) was born on or before December 31, 1952.]~~

68 ~~[(b) (i) "Eligible retirement income" means income received by an eligible under age  
69 65 retiree as a pension or annuity if that pension or annuity is:]~~

70 ~~[(A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible  
71 under age 65 retiree; and]~~

72 ~~[(B) (I) paid from an annuity contract purchased by an employer under a plan that  
73 meets the requirements of Section 404(a)(2), Internal Revenue Code;]~~

74 ~~[(H) purchased by an employee under a plan that meets the requirements of Section  
75 408, Internal Revenue Code; or]~~

76 ~~[(III) paid by:]~~

77 ~~[(Aa) the United States;]~~

78 ~~[(Bb) a state or a political subdivision of a state; or]~~

79 ~~[(Cc) the District of Columbia.]~~

80 ~~[(ii) "Eligible retirement income" does not include amounts received by the spouse of a  
81 living eligible under age 65 retiree because of the eligible under age 65 retiree's having been  
82 employed in a community property state.]~~

83 ~~[(c) "Eligible under age 65 retiree" means a claimant, regardless of whether that  
84 claimant is retired, who:]~~

85           ~~[(i) is younger than 65 years of age;]~~  
 86           ~~[(ii) was born on or before December 31, 1952; and]~~  
 87           ~~[(iii) has eligible retirement income for the taxable year for which a tax credit is~~  
 88 ~~claimed under this section.]~~

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

91           ~~[(e)]~~ (c) "Joint filing status" ~~[is as]~~ means the same as that term is defined in Section  
 92 59-10-1018.

93           ~~[(f)]~~ (d) "Married filing separately status" means a married individual who:  
 94           (i) does not file a single federal individual income tax return jointly with that married  
 95 individual's spouse for the taxable year; and  
 96           (ii) files a single federal individual income tax return for the taxable year.

97           ~~[(g)]~~ (e) "Modified adjusted gross income" means the sum ~~[of an eligible age 65 or~~  
 98 ~~older retiree's or eligible under age 65 retiree's]~~ of the following for an eligible claimant or, if  
 99 the eligible claimant's return under this chapter is allowed a joint filing status, the eligible  
 100 claimant and the eligible claimant's spouse:

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

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

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

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

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

112           ~~[(b) each eligible under age 65 retiree may claim a nonrefundable tax credit against~~

113 ~~taxes otherwise due under this part in an amount equal to the lesser of:]~~  
114       ~~[(i) \$288; or]~~  
115       ~~[(ii) the product of:]~~  
116       ~~[(A) the eligible under age 65 retiree's eligible retirement income for the taxable year~~  
117 ~~for which the eligible under age 65 retiree claims a tax credit under this section; and]~~  
118       ~~[(B) 6%.]~~  
119       ~~[(3) A tax credit under this section may not be carried forward or carried back.]~~  
120       (3) (a) An eligible claimant may not:  
121           (i) carry forward or carry back the amount of a tax credit under this section that  
122 exceeds the eligible claimant's tax liability for the taxable year; or  
123           (ii) claim a tax credit under this section and a tax credit under Section 59-10-1042.  
124       (b) An eligible claimant who qualifies for a tax credit under this section and a tax  
125 credit under Section 59-10-1042 may elect whether to claim a tax credit under this section or a  
126 tax credit under Section 59-10-1042.  
127       (4) The ~~[sum of the tax credits]~~ tax credit allowed by Subsection (2) claimed on ~~[one]~~ a  
128 return filed under this part shall be reduced by \$.025 for each dollar by which modified  
129 adjusted gross income for purposes of the return exceeds:  
130       (a) for a federal individual income tax return that is allowed a married filing separately  
131 status, \$16,000;  
132       (b) for a federal individual income tax return that is allowed a single filing status,  
133 \$25,000;  
134       (c) for a federal individual income tax return that is allowed a head of household filing  
135 status, \$32,000; or  
136       (d) for a return under this chapter that is allowed a joint filing status, \$32,000.  
137       ~~[(5) For purposes of determining the ownership of items of retirement income under~~  
138 ~~this section, common law doctrine shall be applied in all cases even though some items of~~  
139 ~~retirement income may have originated from service or investments in a community property~~  
140 ~~state.]~~

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

142 **59-10-1042. Nonrefundable tax credit for social security benefits.**

143 (1) As used in this section:

144 (a) "Head of household filing status" means the same as that term is defined in Section  
145 59-10-1018.

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

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

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

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

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

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

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

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

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

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

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

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

168 (b) the claimant's social security benefit that is included in adjusted gross income on

169 the claimant's federal income tax return for the taxable year.

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

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

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

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

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

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

182 (b) for a federal individual income tax return that is allowed a single filing status,  
183 \$30,000;

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

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

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

190 **Section 4. Retrospective operation.**

191 This bill has retrospective operation for a taxable year beginning on or after January 1,  
192 2021.