

TAXATION OF SOCIAL SECURITY AND RETIREMENT

BENEFITS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Justin L. Fawson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends and enacts provisions related to individual income taxes.

Highlighted Provisions:

This bill:

- ▶ enacts an individual income tax exemption for an individual with an adjusted gross income that includes a certain percentage attributable to social security benefits;
- ▶ amends birth date requirements for the retirement tax credit; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-10-104, as last amended by Laws of Utah 2008, Chapter 389

59-10-116, as last amended by Laws of Utah 2008, Chapters 382 and 389

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

ENACTS:

59-10-104.2, Utah Code Annotated 1953



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

Section 1. Section **59-10-104** is amended to read:

59-10-104. Tax basis -- Tax rate -- Exemption.

(1) [~~For taxable years beginning on or after January 1, 2008, a~~] A tax is imposed on the state taxable income of a resident individual as provided in this section.

(2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the product of:

(a) the resident individual's state taxable income for that taxable year; and

(b) 5%.

(3) This section does not apply to a resident individual exempt from taxation under Section [59-10-104.1](#) or [59-10-104.2](#).

Section 2. Section **59-10-104.2** is enacted to read:

59-10-104.2. Exemption from taxation on the basis of social security benefits.

(1) As used in this section, "social security benefit" means the same as the term is defined in Section 86, Internal Revenue Code.

(2) An individual is exempt from a tax imposed by Section [59-10-104](#) or [59-10-116](#) if more than 50% of the individual's adjusted gross income on the individual's federal individual income tax return is a taxable social security benefit.

Section 3. Section **59-10-116** is amended to read:

59-10-116. Tax on nonresident individual -- Calculation -- Exemption.

(1) Except as provided in Subsection (2), for a taxable year, a tax is imposed on a nonresident individual in an amount equal to the product of [~~the~~]:

(a) the nonresident individual's state taxable income; and

(b) the percentage listed in Subsection [59-10-104\(2\)](#).

(2) This section does not apply to a nonresident individual exempt from taxation under Section [59-10-104.1](#) or [59-10-104.2](#).

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

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

(1) As used in this section:

(a) "Eligible age 65 or older retiree" means a claimant, regardless of whether that

59 claimant is retired, who:

60 (i) is 65 years of age or older; and

61 (ii) was born on or before December 31, [~~1952~~] 1957.

62 (b) (i) "Eligible retirement income" means income received by an eligible under age 65
63 retiree as a pension or annuity if that pension or annuity is:

64 (A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible under
65 age 65 retiree; and

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

68 (II) purchased by an employee under a plan that meets the requirements of Section 408,
69 Internal Revenue Code; or

70 (III) paid by [~~(Aa)~~] the United States [~~(Bb)~~], a state [~~or~~], a political subdivision of a
71 state [~~;~~], or [~~(Cc)~~] the District of Columbia.

72 (ii) "Eligible retirement income" does not include amounts received by the spouse of a
73 living eligible under age 65 retiree because of the eligible under age 65 retiree's having been
74 employed in a community property state.

75 (c) "Eligible under age 65 retiree" means a claimant, regardless of whether that
76 claimant is retired, who:

77 (i) is younger than 65 years of age;

78 (ii) was born on or before December 31, [~~1952~~] 1957; and

79 (iii) has eligible retirement income for the taxable year for which a tax credit is claimed
80 under this section.

81 (d) "Head of household filing status" is as defined in Section [59-10-1018](#).

82 (e) "Joint filing status" is as defined in Section [59-10-1018](#).

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

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

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

87 (g) "Modified adjusted gross income" means the sum of an eligible age 65 or older
88 retiree's or eligible under age 65 retiree's:

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

90 this section;

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

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

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

97 (2) Except as provided in Section 59-10-1002.2 and subject to Subsections (3) through
98 (5):

99 (a) each eligible age 65 or older retiree may claim a nonrefundable tax credit of \$450
100 against taxes otherwise due under this part; or

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

103 (i) \$288; or

104 (ii) the product of:

105 (A) the eligible under age 65 retiree's eligible retirement income for the taxable year for
106 which the eligible under age 65 retiree claims a tax credit under this section; and

107 (B) 6%.

108 (3) A tax credit under this section may not be carried forward or carried back.

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

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

114 (b) for a federal individual income tax return that is allowed a single filing status,
115 \$25,000;

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

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

119 (5) For purposes of determining the ownership of items of retirement income under this
120 section, common law doctrine shall be applied in all cases even though some items of

121 retirement income may have originated from service or investments in a community property
122 state.

123 Section 5. **Effective date.**

124 This bill takes effect for a taxable year beginning on or after January 1, 2017.

Legislative Review Note
Office of Legislative Research and General Counsel