

Senator Daniel McCay proposes the following substitute bill:

INCOME TAX MODIFICATIONS

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.

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- ▶ clarifies that when a tax credit that allows a carry forward expires or is repealed, the applicable carry forward remains in effect;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; 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:



- 26 [59-10-103.1](#), as last amended by Laws of Utah 2011, Chapter 410
- 27 [59-10-1019](#), as last amended by Laws of Utah 2021, Chapters 68 and 428
- 28 [59-10-1042](#), as enacted by Laws of Utah 2021, Chapter 428
- 29 [59-10-1043](#), as enacted by Laws of Utah 2021, Chapter 68

30 ENACTS:

- 31 [59-7-538](#), Utah Code Annotated 1953
- 32 [59-10-552](#), Utah Code Annotated 1953

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

35 Section 1. Section [59-7-538](#) is enacted to read:

36 **[59-7-538](#). Carry forward of expired or repealed tax credit.**

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38 repealed, the commission shall allow a taxpayer to carry forward any amount of the tax credit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

41 Section 2. Section [59-10-103.1](#) is amended to read:

42 **[59-10-103.1](#). Information to be contained on individual income tax returns or**
43 **booklets.**

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

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

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

51 Section 3. Section [59-10-552](#) is enacted to read:

52 **[59-10-552](#). Carry forward of expired or repealed tax credit.**

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54 Credit Act, expires or is repealed, the commission shall allow a claimant, estate, or trust to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

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

58 **59-10-1019. Definitions -- Nonrefundable retirement tax credit.**

59 (1) As used in this section:

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

62 (b) "Head of household filing status" means the same as that term is defined in Section
63 **59-10-1018**.

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

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

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

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

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

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

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

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

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

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

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

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

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

88 taxable year.

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

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

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

97 (b) for a federal individual income tax return that is allowed a single filing status,
98 \$25,000;

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

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

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

103 **59-10-1042. Nonrefundable tax credit for social security benefits.**

104 (1) As used in this section:

105 (a) "Head of household filing status" means the same as that term is defined in Section
106 **59-10-1018**.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

144 (b) for a federal individual income tax return that is allowed a single filing status,
145 \$30,000;

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

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

149 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

150 commission may make rules governing the calculation and method for claiming the tax credit
151 described in this section.

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

153 **59-10-1043. Nonrefundable tax credit for military retirement.**

154 (1) As used in this section:

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

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

159 (A) Social Security income;

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

161 (C) income from other sources.

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

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

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

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

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

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

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

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 Section 7. **Effective date.**

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

181 the date of veto override.

182 Section 8. **Retrospective operation.**

183 The changes to Sections [59-10-1019](#), [59-10-1042](#), and [59-10-1043](#) have retrospective
184 operation for a taxable year beginning on or after January 1, 2021.