

1                                   **SOCIAL SECURITY INCOME TAX AMENDMENTS**

2   2020 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Karen Mayne**

5                                   House Sponsor: \_\_\_\_\_

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7 **LONG TITLE**

8 **General Description:**

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

10 **Highlighted Provisions:**

11           This bill:

- 12           ▶ defines terms;
- 13           ▶ enacts a tax credit for social security benefits that are included in the claimant's
- 14 modified adjusted gross income;
- 15           ▶ provides that an individual who claims the tax credit for social security benefits may
- 16 not also claim the retirement tax credit;
- 17           ▶ grants rulemaking authority to the State Tax Commission; and
- 18           ▶ makes technical and conforming changes.

19 **Money Appropriated in this Bill:**

20           None

21 **Other Special Clauses:**

22           This bill provides retrospective operation.

23 **Utah Code Sections Affected:**

24 AMENDS:

25           **59-10-1002.2**, as last amended by Laws of Utah 2016, Chapter 263

26           **59-10-1019**, as renumbered and amended by Laws of Utah 2008, Chapter 389

27 ENACTS:



28 **59-10-1041**, Utah Code Annotated 1953



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

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

32 **59-10-1002.2. Apportionment of tax credits.**

33 (1) A nonresident individual or a part-year resident individual that claims a tax credit  
34 in accordance with Section **59-10-1017**, **59-10-1018**, **59-10-1019**, **59-10-1022**, **59-10-1023**,  
35 **59-10-1024**, [~~or~~] **59-10-1028**, or 59-10-1041 may only claim an apportioned amount of the tax  
36 credit equal to:

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

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

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

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

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

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

45 (2) A nonresident estate or trust that claims a tax credit in accordance with Section  
46 **59-10-1017**, **59-10-1020**, **59-10-1022**, **59-10-1024**, or **59-10-1028** may only claim an  
47 apportioned amount of the tax credit equal to the product of:

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

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

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

52 **59-10-1019. Definitions -- Nonrefundable retirement tax credits.**

53 (1) As used in this section:

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

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

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

58 [~~(b) (i) "Eligible retirement income" means income received by an eligible under age~~]

- 59 65 retiree as a pension or annuity if that pension or annuity is:]
- 60       ~~[(A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible~~
- 61 ~~under age 65 retiree; and]~~
- 62       ~~[(B) (I) paid from an annuity contract purchased by an employer under a plan that~~
- 63 ~~meets the requirements of Section 404(a)(2), Internal Revenue Code;]~~
- 64       ~~[(H) purchased by an employee under a plan that meets the requirements of Section~~
- 65 ~~408, Internal Revenue Code; or]~~
- 66       ~~[(H) paid by:]~~
- 67       ~~[(Aa) the United States;]~~
- 68       ~~[(Bb) a state or a political subdivision of a state; or]~~
- 69       ~~[(Cc) the District of Columbia.]~~
- 70       ~~[(ii) "Eligible retirement income" does not include amounts received by the spouse of a~~
- 71 ~~living eligible under age 65 retiree because of the eligible under age 65 retiree's having been~~
- 72 ~~employed in a community property state.]~~
- 73       ~~[(c) "Eligible under age 65 retiree" means a claimant, regardless of whether that~~
- 74 ~~claimant is retired, who:]~~
- 75       ~~[(i) is younger than 65 years of age;]~~
- 76       ~~[(ii) was born on or before December 31, 1952; and]~~
- 77       ~~[(iii) has eligible retirement income for the taxable year for which a tax credit is~~
- 78 ~~claimed under this section.]~~
- 79       ~~[(d)] (b) "Head of household filing status" [is as] means the same as that term is~~
- 80 ~~defined in Section 59-10-1018.~~
- 81       ~~[(e) "Joint filing status" is as defined in Section 59-10-1018.]~~
- 82       (c) "Joint filing status" means:
- 83       (i) spouses who file one return jointly under this chapter for the taxable year; or
- 84       (ii) a surviving spouse, as defined in Section (2)(a), Internal Revenue Code, who files
- 85 one federal individual income tax return for the taxable year.
- 86       ~~[(f)] (d) "Married filing separately status" means a married individual who:~~
- 87       ~~(i) does not file [a single] one federal individual income tax return jointly with that~~
- 88 ~~married individual's spouse for the taxable year; and~~
- 89       ~~(ii) files [a single] one federal individual income tax return for the taxable year.~~

90 ~~[(g)]~~ (e) "Modified adjusted gross income" means the sum of an eligible over age 65  
 91 ~~[or older retiree's or eligible under age 65]~~ retiree's:

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

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

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

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

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

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

105 ~~[(i) \$288; or]~~

106 ~~[(ii) the product of:]~~

107 ~~[(A) the eligible under age 65 retiree's eligible retirement income for the taxable year~~  
 108 ~~for which the eligible under age 65 retiree claims a tax credit under this section; and]~~

109 ~~[(B) 6%.]~~

110 ~~[(3) A tax credit under this section may not be carried forward or carried back.]~~

111 (3) An eligible over age 65 retiree may not:

112 (a) carry forward or carry back a tax credit under this section; or

113 (b) claim a tax credit under this section if a tax credit is claimed under Section  
 114 [59-10-1041](#) on the same return.

115 (4) ~~[The sum of the tax credits allowed by Subsection (2)]~~ A tax credit described in this  
 116 section that is claimed on one return filed under this part ~~[shall be]~~ is reduced by \$.025 for each  
 117 dollar by which modified adjusted gross income for purposes of the return exceeds:

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

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

121 \$25,000;

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

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

125 ~~[(5) For purposes of determining the ownership of items of retirement income under  
126 this section, common law doctrine shall be applied in all cases even though some items of  
127 retirement income may have originated from service or investments in a community property  
128 state.]~~

129 Section 3. Section **59-10-1041** is enacted to read:

130 **59-10-1041. Nonrefundable tax credit for social security benefits.**

131 (1) As used in this section:

132 (a) "Head of household filing status" means the same as that term is defined in Section  
133 [59-10-18](#).

134 (b) "Joint filing status" means:

135 (i) spouses who file one return jointly under this chapter for a taxable year; or

136 (ii) a surviving spouse, as defined in Subsection (2)(a), Internal Revenue Code, who  
137 files one federal individual income tax return for a taxable year.

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

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

141 (ii) files one federal individual income tax return for the taxable year.

142 (d) "Modified adjusted gross income" means the sum of a claimant's:

143 (i) adjusted gross income for the taxable year for which the claimant claims a tax credit  
144 under this section;

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

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

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

151 (f) "Social security benefit" means an amount received by a claimant as a monthly

152 benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.

153 (2) Except as provided in Section 59-10-1002.2 and Subsections (3) and (4), a claimant  
154 may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the  
155 product of:

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

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

159 (3) A claimant may not:

160 (a) carry forward or carry back a tax credit under this section; or

161 (b) claim a tax credit under this section if a tax credit is claimed under Section  
162 59-10-1019 on the same return.

163 (4) A tax credit described in this section that is claimed on a return filed under this part  
164 is reduced by \$.025 for each dollar by which modified adjusted gross income for purposes of  
165 the return exceeds:

166 (a) for a return that has a married filing separately status, \$40,000;

167 (b) for a return that has a single filing status, \$50,000;

168 (c) for a return that has a head of household filing status, \$80,000; or

169 (d) for a return that has a joint filing status, \$80,000.

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

173 **Section 4. Retrospective operation.**

174 This bill has retrospective operation for a taxable year beginning on or after January 1,  
175 2020.