

2006 GENERAL SESSION 2ND SUBSTITUTE S.B. 242, TAX REVISIONS

SUMMARY OF KEY PROVISIONS

The attached document summarizes key provisions contained in 2006 General Session 2nd Substitute S.B. 242, Tax Revisions (S.B. 242). This document does not provide an exhaustive summary of all provisions of S.B. 242, and in particular omits a summary of technical changes. To gain a better understanding of the policy decisions made in drafting S.B. 242, you may wish to speak to the contact persons listed in the document. It may also be helpful to meet with your legislative staff and drafting attorney, Rebecca Rockwell, to review the bill in detail. I may be reached at 801-538-1032.

2006 GENERAL SESSION 2ND SUBSTITUTE S.B. 242, TAX REVISIONS

SUMMARY OF KEY PROVISIONS

Income Tax Checkoffs and Credits

Policy Decision in 2nd Sub. S.B. 242	Background/Contact Person	Other Information
<p>Repeals individual income tax checkoffs and related provisions:</p> <ul style="list-style-type: none"> - Election Campaign Fund - Utah Nongame Wildlife Fund - Pamela Atkinson Homeless Trust Fund - Kurt Oscarson Children's Organ Transplant Fund - School District/Nonprofit School District Foundation - Utah College of Applied Technology - Uniform School Fund - Wolf Depredation Fund 	<p>Contact: Bramble/Dougall</p>	<p>The individual income tax checkoffs were reinstated by amendment in the House (Noel)</p> <p>H.B. 95 adds a new checkoff for cat and dog community spay and neuter programs (Effective for taxable years beginning on or after 1/1/06) (Noel)</p>
<p>Repeals most individual income tax credits and related provisions, including credits relating to:</p> <ul style="list-style-type: none"> - Clean fuel vehicles - Cash contributions to sheltered workshops - At-home parents - Historic preservation - Recycling market development zones - Targeted jobs - Cleaner burning fuels - Tutoring for disabled dependents - Research and development - Research and development machinery/equipment - Adoption of child with special need - Renewable energy systems - Farming hand tools - Live organ donation expenses - Agricultural fuels (credit may still be claimed but not on individual income tax return) - Enterprise zones - Targeted business within enterprise zones - Venture capital 	<p>Contact: Bramble/Dougall</p> <p>- Expired 2003</p>	<p>- Ability to claim agricultural fuels tax credit on individual income tax return reinstated by amendment in the House (Craig Buttars)</p>

Policy Decision in 2nd Sub. S.B. 242	Background/Contact Person	Other Information
<p>Retains individual income tax credits for:</p> <ul style="list-style-type: none"> - Mineral production withholding - Taxes paid to another state (apportioned if claimed by a nonresident or part-year resident) - Low-income housing tax credit, but only until credits are claimed for allocation certificates already issued - Nonresident shareholders of S corporations 	<p>Contact: Bramble/Dougall</p> <ul style="list-style-type: none"> - Need a mechanism to credit taxpayers for amounts withheld - Avoid double taxation - Policy decision to allow credits to be claimed for allocation certificates issued - Need a mechanism to credit taxpayers for amounts paid or withheld 	<ul style="list-style-type: none"> - Study item on Master Study Resolution (Dougall request relating to teleworkers)
<p>Enacts individual income tax credits for:</p> <ul style="list-style-type: none"> - Charitable contributions (50% of itemized contribution times the tax rate) - Homeowners (greater of: \$200; or 50% of itemized mortgage interest times the tax rate) - Taxpayers on the basis of filing status (\$400 single; \$450 married filing separately; \$600 head of household; \$900 married filing jointly or surviving spouse) plus \$100 for each personal exemption claimed (the tax credit based on filing status phases out at adjusted gross incomes of 20 times to 95 times the amount of the credit and all credits are adjusted for inflation annually) <p>The above tax credits are apportioned if claimed by a nonresident or part-year resident</p>	<p>Contact: Bramble/Dougall</p>	<p>An additional tax credit was enacted by amendment in the House for Higher Education Savings Incentive Program Contributions (Allen) Contact: Lynne Ward 321-7203</p>
<p>Provides that individual income tax credits repealed by S.B. 242 may be carried forward until the earlier of: the number of taxable years required to carry each tax credit forward; or the number of taxable years each tax credit would have been allowed to be carried forward if the tax credit had not been repealed</p>	<p>Contact: Bramble/Dougall</p>	

Policy Decision in 2nd Sub. S.B. 242	Background/Contact Person	Other Information
Provides definitions, recodifies tax credits, and specifies which tax credits may be claimed by individuals, estates, and trusts	Contact: Bramble/Dougall Harmonizes with S.B. 37	Consider asking the Tax Review Commission's Estate and Trust Working Group to review any proposed legislation

Income Tax Base and Rate

Policy Decision in 2nd Sub. S.B. 242	Background/Contact	Other Information
Tax imposed on federal adjusted gross income (AGI) of individuals, estates, and trusts rather than federal taxable income (FTI) and changes related references	Contact: Bramble/Dougall/Keith Prescott Recommended in November 2004 by Governor Olene Walker's tax advisors	
Single tax rate of 4.975% for individuals, estates, and trusts, and changes related references	Contact: Bramble/Dougall	
Repeals tax exemption for persons having low incomes	Contact: Bramble/Dougall	Tax exemption for persons having low incomes reinstated by amendment in the House (Harper)
<p>Retains additions to income and related provisions - individuals:</p> <ul style="list-style-type: none"> - Higher Education Savings Incentive Program distributions if not expended for higher education costs - Distributions received by a resident beneficiary of a resident trust of income that was taxed at the trust level for federal tax purposes but was subtracted from state taxable income - Distributions received by a resident beneficiary of a nonresident trust of income that was taxed at the trust level for federal tax purposes but was not taxed at the trust level by any state 	<p>Contact: Bramble/Dougall</p> <ul style="list-style-type: none"> - Addition to income was rewritten at the request of the Utah Education Savings Plan Contact: Lynne Ward - This addition and the addition below were repealed in the original S.B. 242 but were reinstated in 1st Sub. S.B. 242 Contact: Howard Headlee - Addition to income was rewritten consistent with S.B. 38, which passed in 2006 Contact: Howard Headlee 	
Policy Decision in 2nd Sub. S.B. 242	Background/Contact Person	Other Information

<p>Repeals additions to income and related provisions - individuals:</p> <ul style="list-style-type: none"> - Utah income tax/income tax imposed by another state to the extent deducted from AGI - Lump sum distribution not included in AGI - Child's income reported on parent's return - 25% of federal personal exemption amounts - Withdrawal from a medical care savings account if amount withdrawn is not used for a medical expense - Other states/local gov't bond interest 	<p>Contact: Bramble/Dougall</p> <ul style="list-style-type: none"> - Deduction made in determining FTI so addition not necessary if tax based on AGI - Personal exemption calculated as part of FTI so addition not necessary if tax based on AGI 	<ul style="list-style-type: none"> - Addition to income was reinstated by amendment in the House (Curtis)
<p>Retains subtractions from income and related provisions - individuals:</p> <ul style="list-style-type: none"> - Interest or dividends on obligations or securities of the United States - Income derived by a Ute tribal member from a source within the Uintah and Ouray Reservation 	<p>Contact: Bramble/Dougall</p> <ul style="list-style-type: none"> - Required by federal law - Administrative simplicity in tracking this income 	
<p>Policy Decision in 2nd Sub. S.B. 242</p>	<p>Background/Contact Person</p>	<p>Other Information</p>

<p>Repeals subtractions from income and related provisions - individuals:</p> <ul style="list-style-type: none"> - 50% of federal income tax paid - The amount of a credit or advance refund amount allowed as a result of the acceleration of the 2001 tax rate bracket benefit - Adoption expenses - Certain retirement income received by taxpayers under age 65 - Personal retirement exemption for taxpayers 65 or over - Additional 75% of federal personal exemption amount for each dependent child and adult with a disability - Reparation payments for persons of Japanese ancestry interned during World War II - Health care insurance payments - Medical care savings account contributions and interest - Higher Education Savings Incentive Program contributions and investment income - Long-term care insurance premiums - Certain capital gains - Certain income of a qualifying military service member 	<p>Contact: Bramble/Dougall</p> <ul style="list-style-type: none"> - Obsolete language - These reparation payments are exempt from taxation under federal law - Expired 2005 	<ul style="list-style-type: none"> - A tax credit was enacted for these contributions by amendment in the House (Allen)
<p>Enacts subtractions from income and related provisions - individuals:</p> <ul style="list-style-type: none"> - Amounts received by certain individuals or trust beneficiaries as a tax refund - Railroad retirement benefit - Income received by an enrolled member of an American Indian tribe 	<p>Contact: Bramble/Dougall/Tax Review Commission Estate & Trust Working Group¹</p> <ul style="list-style-type: none"> - Harmonizes with S.B. 37 - currently allowed on individual income tax form - Harmonizes with S.B. 37 - required by federal law - Harmonizes with S.B. 37 - as required by federal law, treaty, or case law 	
<p>Rewrites equitable adjustment provisions for individuals and enacts equitable adjustment provisions for estates and trusts</p>	<p>Contact: Estate and Trust Working Group Harmonizes with S.B. 37</p>	
<p>Policy Decision in 2nd Sub. S.B. 242</p>	<p>Background/Contact Person</p>	<p>Other Information</p>

Modifies the taxation of nonresident individuals	Contact: Bramble/Dougall Addresses change from FTI to AGI	
Requires a resident or nonresident individual to file an individual income tax return using the same filing status as the resident or nonresident individual used for filing a federal individual income tax return for that same taxable year	Contact: Bramble/Dougall/Tax Commission Lynn Solarczyk	
Enacts additions to income and related provisions - estates and trusts: <ul style="list-style-type: none"> - Fiduciary adjustments 	Contact: Bramble/Dougall/Estate and Trust Working Group Harmonizes with S.B. 37; addresses change from FTI to AGI Harmonizes with S.B. 37 and treatment of individuals	<ul style="list-style-type: none"> - Addition to income for other states'/local gov't bond interest was enacted by amendment in the House (Curtis)
Repeals additions to income and related provisions - estates and trusts: <ul style="list-style-type: none"> - Utah income tax/income tax imposed by another state to the extent deducted from AGI - Lump sum distribution - Internal Revenue Code Section 644(b) gain 	Contact: Bramble/Dougall/Estate and Trust Working Group - Deduction made in determining FTI so addition not necessary if tax based on AGI - Internal Revenue Code Section 644(b) repealed	
Retains subtractions from income and related provisions - estates and trusts: <ul style="list-style-type: none"> - Interest or dividends on obligations or securities of the United States - Certain income of an irrevocable resident trust 	Contact: Bramble/Dougall/Estate and Trust Working Group Harmonizes with S.B. 37 and treatment of individuals; addresses change from FTI to AGI - Required by federal law - This subtraction was repealed in the original S.B. 242 but was reinstated in 1st Sub. S.B. 242	
Policy Decision in 2nd Sub. S.B. 242	Background/Contact Person	Other Information

<p>Repeals subtractions from income and related provisions - estates and trusts: - 50% of income tax paid</p>	<p>Contact: Bramble/Dougall - Harmonizes with treatment of individuals</p>	
<p>Enacts subtractions from income and related provisions - estates and trusts:</p> <ul style="list-style-type: none"> - Income derived from a deceased Ute tribal member from a source within the Uintah and Ouray Reservation - Amounts received by a resident or nonresident estate or trust as a tax refund - Railroad retirement benefit - Income derived from a deceased enrolled member of an American Indian tribe 	<p>Contact: Bramble/Dougall/Estate and Trust Working Group Harmonizes with S.B. 37 and treatment of individuals; addresses change from FTI to AGI</p> <ul style="list-style-type: none"> - Administrative simplicity in tracking this income - Harmonize with individual income tax - Required by federal law - As required by federal law, treaty, or case law 	
<p>Modifies the fiduciary adjustment provisions for estates and trusts</p>	<p>Contact: Bramble/Dougall/Estate and Trust Working Group Harmonizes with S.B. 37</p>	

Other Significant Changes in S.B. 242

Policy Decision in 2nd Sub. S.B. 242	Background/Contact	Other Information
<p>Repeals, enacts, and modifies definitions</p>	<p>Contact: Bramble/Dougall Repeals definitions that are no longer used in Title 59, Chapter 10, Individual Income Tax Act; enacts new definitions such as "adjusted gross income," "distributable net income," "federal taxable income," and "state taxable income"; harmonizes with S.B. 37</p>	
<p>Repeals intent language relating to the Individual Income Tax Act</p>	<p>Contact: Bramble/Dougall This intent language references a tax imposed on the basis of FTI rather than AGI; other portions of the intent language are probably unnecessary</p>	

Policy Decision in 2nd Sub. S.B. 242	Background/Contact Person	Other Information
Repeals the authority for an alternate individual income tax imposed on the basis of tax tables if those tax tables are prescribed by the Tax Commission	Contact: Bramble/Dougall/Tax Commission Lynn Solarczyk The Tax Commission does not prescribe tax tables and saw no reason to keep this section in the law, especially with the enactment of a single individual income tax rate	
Repeals sections defining "federal taxable income" and "state taxable income"	Contact: Bramble/Dougall Definitions of "federal taxable income" and "state taxable income" enacted in definition section of Individual Income Tax Act	
Repeals provisions relating to removing tax credits and checkoffs from income tax return under certain circumstances	Contact: Bramble/Dougall Most credits and all checkoffs are repealed by S.B. 242	The provision requiring income tax checkoffs to be removed from the income tax return under certain circumstances was reinstated by amendment in the House. This amendment also reinstated the checkoffs. (Noel)
Repeals a section relating to adjustments to state taxable income of resident estates or trusts and beneficiaries	Contact: Bramble/Dougall/Estate and Trust Working Group Harmonizes with S.B. 37	
Repeals a section relating to the application of former income tax law for taxable years beginning before January 1, 1973.	Contact: Bramble/Dougall/Tax Commission Lynn Solarczyk Obsolete language	
General effective date is for taxable years beginning on or after January 1, 2007; certain estate and trust provisions have retrospective operation for taxable years beginning on or after January 1, 2004.	Contact: Bramble/Dougall Retrospective operation portion harmonizes with S.B. 38	