

HOUSE BILL NO. 193

INTRODUCED BY TOOLE, LARSON

IN THE HOUSE

JANUARY 15, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

JANUARY 16, 1991 FIRST READING.

JANUARY 23, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 24, 1991 PRINTING REPORT.

JANUARY 26, 1991 SECOND READING, DO PASS AS AMENDED.

JANUARY 28, 1991 ENGROSSING REPORT.

JANUARY 30, 1991 THIRD READING, PASSED.
AYES, 99; NOES, 0.

TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 31, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FIRST READING.

MARCH 14, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 16, 1991 SECOND READING, CONCURRED IN.

MARCH 18, 1991 THIRD READING, CONCURRED IN.
AYES, 49; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 19, 1991 RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

~~HOUSE~~ BILL NO. 193
INTRODUCED BY Joe Rawn

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE EXEMPTIONS FROM STATE INHERITANCE TAXES; REDUCING FROM 10 YEARS TO 5 YEARS THE TIME PERIOD REQUIREMENT FOR AN ACKNOWLEDGED PARENT-CHILD RELATIONSHIP BETWEEN A NONLINEAL DESCENDANT AND A DECEDENT; ELIMINATING THE REQUIREMENT THAT THE RELATIONSHIP MUST BEGIN BEFORE THE CHILD'S 15TH BIRTHDAY; CLARIFYING THAT THE RELATIONSHIP MAY BE ONE OF A STEPCHILD TO A STEPPARENT; AMENDING SECTION 72-16-313, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 72-16-313, MCA, is amended to read:

"72-16-313. Exemptions of spouse and other relatives.

(1) The clear value of all property distributed or passing to decedent's surviving spouse is exempt.

(2) The clear value of all property distributed or passing to the following is exempt:

(a) any child or lineal descendant of the decedent. A determination as to establishment of the parent and child relationship or establishment of a person as a lineal descendant must be made in accordance with the rules for determining relationship for purposes of intestate

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15

succession under Title 72, chapter 2, part 2.

(b) any child to whom such the decedent for not less than ~~10~~ 5 years prior to such the transfer stood in the mutually acknowledged ~~relation~~ relationship of a parent or stepparent,~~---provided---such---relationship-began-at-or-before the-child's-15th-birthday-and-was-continuous-for-10-years.~~

(3) The following amounts are exempt:

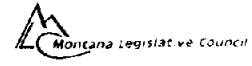
(a) property of the clear value of \$7,000 transferred to each of the persons who have attained majority described in 72-16-321(1); and

(b) property of the clear value of \$1,000 transferred to each of the persons described in 72-16-321(2)."

NEW SECTION. **Section 2.** Retroactive applicability.

[This act] applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1990.

-End-



-2-
INTRODUCED BILL
HB 193

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0193, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act relating to the exemptions from state inheritance taxes; reducing from 10 to 5 years the time period requirement for an acknowledged parent-child relationship between a nonlinear descendant and a decedent; eliminating the requirement that the relationship must begin before the child's 15th birthday; clarifying that the relationship may be one of a stepchild to a stepparent; and providing a retroactive applicability date.


FISCAL IMPACT:

This bill relaxes the restrictions on inheritance tax exemptions for nonlinear descendants. Under current law the value of property distributed to children who have been in a child-parent relationship for at least 10 years, provided that the relationship began on or before the child's 15th birthday, is exempt from inheritance tax. Under the proposal, the time period is reduced to 5 years, the relationship is clarified to include relationships between children and stepparents, and the reference to the 15th birthday criterion is deleted.

These changes would reduce inheritance tax revenue in those specific instances where descendants would now meet the exemption criteria. There is no data on which to estimate the tax impact of this particular situation; however, the impact is believed to be minor.

There is no impact on Department of Revenue administrative expense.


ROD SUNDSTED, BUDGET DIRECTOR 1-18-91
Office of Budget and Program Planning DATE


HOWARD TOOLE, PRIMARY SPONSOR 1/21/91
Fiscal Note for HB0193, as introduced **HB 193**

APPROVED BY COMMITTEE
ON TAXATION

1 HOUSE BILL NO. 193
 2 INTRODUCED BY TOOLE, LARSON
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE
 5 EXEMPTIONS FROM STATE INHERITANCE TAXES; REDUCING FROM 10
 6 YEARS TO 5 YEARS THE TIME PERIOD REQUIREMENT FOR AN
 7 ACKNOWLEDGED PARENT-CHILD RELATIONSHIP BETWEEN A NONLINEAL
 8 DESCENDANT AND A DECEDENT; ELIMINATING THE REQUIREMENT THAT
 9 THE RELATIONSHIP MUST BEGIN BEFORE THE CHILD'S 15TH
 10 BIRTHDAY; CLARIFYING THAT THE RELATIONSHIP MAY BE ONE OF A
 11 STEPCHILD TO A STEPPARENT; AMENDING SECTION 72-16-313, MCA;
 12 AND PROVIDING A RETROACTIVE APPLICABILITY DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 **Section 1.** Section 72-16-313, MCA, is amended to read:
 16 "72-16-313. Exemptions of spouse and other relatives.
 17 (1) The clear value of all property distributed or passing
 18 to decedent's surviving spouse is exempt.
 19 (2) The clear value of all property distributed or
 20 passing to the following is exempt:
 21 (a) any child or lineal descendant of the decedent. A
 22 determination as to establishment of the parent and child
 23 relationship or establishment of a person as a lineal
 24 descendant must be made in accordance with the rules for
 25 determining relationship for purposes of intestate

1 succession under Title 72, chapter 2, part 2.
 2 (b) any child to whom such the decedent for not less
 3 than 10 5 years prior to such the transfer stood in the
 4 mutually acknowledged ~~relation~~ relationship of a parent or
 5 stepparent,~~---provided---such---relationship---began---at---or---before~~
 6 ~~the-child's-15th-birthday-and-was-continuous-for-10-years.~~
 7 (3) The following amounts are exempt:
 8 (a) property of the clear value of \$7,000 transferred
 9 to each of the persons who have attained majority described
 10 in 72-16-321(1); and
 11 (b) property of the clear value of \$1,000 transferred
 12 to each of the persons described in 72-16-321(2)."
 13 **NEW SECTION. Section 2.** Retroactive applicability.
 14 [This act] applies retroactively, within the meaning of
 15 1-2-109, to ~~taxable-years-beginning~~ ESTATES IN WHICH THE
 16 DATE OF DEATH IS after December 31, 1990.

-End-

1 HOUSE BILL NO. 193

2 INTRODUCED BY TOOLE, LARSON

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE
5 EXEMPTIONS FROM STATE INHERITANCE TAXES; ~~REDUCING-FROM-10~~
6 ~~YEARS-TO-5-YEARS-THE~~ ELIMINATING THE 10-YEAR TIME PERIOD
7 REQUIREMENT FOR AN ACKNOWLEDGED PARENT-CHILD RELATIONSHIP
8 BETWEEN A NONLINEAL DESCENDANT AND A DECEDENT; ~~ELIMINATING~~
9 ~~THE-REQUIREMENT~~ REQUIRING THAT THE RELATIONSHIP MUST BEGIN
10 ON OR BEFORE THE CHILD'S 15TH 18TH BIRTHDAY; CLARIFYING THAT
11 THE RELATIONSHIP MAY BE ONE OF A STEPCHILD TO A STEPPARENT;
12 AMENDING SECTION 72-16-313, MCA; AND PROVIDING A RETROACTIVE
13 APPLICABILITY DATE."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:16 **Section 1.** Section 72-16-313, MCA, is amended to read:

17 "72-16-313. Exemptions of spouse and other relatives.

18 (1) The clear value of all property distributed or passing
19 to decedent's surviving spouse is exempt.20 (2) The clear value of all property distributed or
21 passing to the following is exempt:22 (a) any child or lineal descendant of the decedent. A
23 determination as to establishment of the parent and child
24 relationship or establishment of a person as a lineal
25 descendant must be made in accordance with the rules for1 determining relationship for purposes of intestate
2 succession under Title 72, chapter 2, part 2.3 (b) any child to whom ~~such the~~ decedent ~~for--not--less~~
4 ~~than--10 5--years,~~ prior to ~~such the~~ transfer, stood in the
5 mutually acknowledged ~~relation~~ relationship of a parent or
6 stepparent, PROVIDED THE RELATIONSHIP BEGAN ON OR BEFORE THE
7 CHILD'S 18TH BIRTHDAY, ~~provided-such-relationship-began-at~~
8 ~~or-before-the-child's-15th-birthday-and-was--continuous--for~~
9 ~~10-years.~~

10 (3) The following amounts are exempt:

11 (a) property of the clear value of \$7,000 transferred
12 to each of the persons who have attained majority described
13 in 72-16-321(1); and14 (b) property of the clear value of \$1,000 transferred
15 to each of the persons described in 72-16-321(2)."16 NEW SECTION. **Section 2.** Retroactive applicability.17 [This act] applies retroactively, within the meaning of
18 1-2-109, to ~~taxable--years--beginning~~ ESTATES IN WHICH THE
19 DATE OF DEATH IS after December 31, 1990.

-End-

THIRD READING

-2-

AS AMENDED HB 193

HOUSE BILL NO. 193

INTRODUCED BY TOOLE, LARSON

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE EXEMPTIONS FROM STATE INHERITANCE TAXES; ~~REBUING-FROM-10 YEARS-TO-5-YEARS-THE~~ ELIMINATING THE 10-YEAR TIME PERIOD REQUIREMENT FOR AN ACKNOWLEDGED PARENT-CHILD RELATIONSHIP BETWEEN A NONLINEAL DESCENDANT AND A DECEDENT; ~~BLMINATING THE--REQUIREMENT~~ REQUIRING THAT THE RELATIONSHIP MUST BEGIN ON OR BEFORE THE CHILD'S 15TH 18TH BIRTHDAY; CLARIFYING THAT THE RELATIONSHIP MAY BE ONE OF A STEPCILD TO A STEPPARENT; AMENDING SECTION 72-16-313, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 72-16-313, MCA, is amended to read:

"72-16-313. Exemptions of spouse and other relatives.

(1) The clear value of all property distributed or passing to decedent's surviving spouse is exempt.

(2) The clear value of all property distributed or passing to the following is exempt:

(a) any child or lineal descendant of the decedent. A determination as to establishment of the parent and child relationship or establishment of a person as a lineal descendant must be made in accordance with the rules for

determining relationship for purposes of intestate succession under Title 72, chapter 2, part 2.

(b) any child to whom such the decedent for ~~not less~~ than ~~10~~ 5 years, prior to such the transfer, stood in the mutually acknowledged relation relationship of a parent or stepparent, PROVIDED THE RELATIONSHIP BEGAN ON OR BEFORE THE CHILD'S 18TH BIRTHDAY, ~~provided such relationship began at or before the child's 15th birthday and was continuous for~~ 10 years.

(3) The following amounts are exempt:

(a) property of the clear value of \$7,000 transferred to each of the persons who have attained majority described in 72-16-321(1); and

(b) property of the clear value of \$1,000 transferred to each of the persons described in 72-16-321(2)."

NEW SECTION. **Section 2.** Retroactive applicability.

[This act] applies retroactively, within the meaning of 1-2-109, to ~~taxable years beginning~~ ESTATES IN WHICH THE DATE OF DEATH IS after December 31, 1990.

-End-

REFERENCE BILL