

FIRST READING

MISSING

STATE OF MONTANA

REQUEST NO. 34-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 10, 19 77, there is hereby submitted a Fiscal Note for House Joint Resolution 4 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION

A resolution which urges the Department of Revenue to apply rule 42-2.8(1) - S8660 of the Montana Administrative Code in a more uniform manner. (Pertaining to income splitting on individual income tax.)

ASSUMPTIONS

1. All returns for married persons having business or farm income will split income on a 50-50 basis with spouse.
2. The resolution is implemented by the Department of Revenue beginning with the treatment of returns for calendar year 1977.
3. The percentage reduction in liability (5.76%) associated with an examination of returns for calendar year 1975 under assumption (1) will also apply to calendar years 1977, 1978, and 1979.
4. The Department of Revenue forecast of individual income tax revenues (\$123.732 million for FY 78 and \$140.093 million for FY 79) is assumed to be the basis for computation.
5. No additional auditors or investigations personnel would be hired to attempt to achieve equity in the administration of the income tax.

FISCAL IMPACT

	<u>FY 78</u>	<u>FY 79</u>
Estimated Individual Income Tax Collections under current law	\$123,732,000	\$140,093,000
Estimated Individual Income Tax Collections under proposed law	<u>\$116,790,000</u>	<u>\$132,023,000</u>
ESTIMATED DECREASE	<u>\$ 6,942,000</u>	<u>\$ 8,070,000</u>
TOTAL EFFECT ON REVENUE		

EFFECT ON COUNTY OR OTHER LOCAL REVENUE

No impact on local jurisdictions, according to present law.

LONG-RANGE EFFECTS

Individual income tax revenues would decrease by 5.76% from what they would be without the proposed implementation.

TECHNICAL NOTES

The Department of Revenue already allows an allocation of income between spouses according to the following criteria:

1. legal interest in the property from which the income is derived,
2. an estimate of reasonable compensation for services rendered, based on prevailing wage rates for the type of services performed.

Existing audit procedures would be frustrated to the extent that the Department would have to allow virtually any income allocation claimed by the taxpayer.

Richard L. Drayton
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-14-77

Approved by Committee
on Taxation

1 HOUSE JOINT RESOLUTION NO. 4
 2 INTRODUCED BY BRADLEY
 3
 4 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF
 5 REPRESENTATIVES OF THE STATE OF MONTANA URGING THE
 6 DEPARTMENT OF REVENUE TO APPLY RULE 42-2.8(1)-S8660 OF THE
 7 MONTANA ADMINISTRATIVE CODE IN A FAIR AND IMPARTIAL MANNER.
 8
 9 WHEREAS, many married Montanans have found that filing
 10 a joint return for their federal income taxes under section
 11 6013 of the Internal Revenue Code has been advantageous for
 12 them during the past several years; and
 13 WHEREAS, many married Montanans have also found that
 14 due to the structure of Montana income taxation, filing
 15 separate returns for their state income taxes is
 16 advantageous for them; and
 17 WHEREAS, the Department of Revenue has responded to
 18 this situation by adopting and subsequently amending rule
 19 42-2.8(1)-S8660 (formerly 42-2.6(2)-S60730) which purports
 20 to allow a proprietor of a business and the proprietor's
 21 spouse to allocate their income between them for actual
 22 services rendered; and
 23 WHEREAS, this rule has been administered in an
 24 arbitrary and uneven manner as in some cases when the wife
 25 of the taxpayer is being allowed only the bare minimum wage

1 for farm labor.
 2
 3 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE
 4 OF REPRESENTATIVES OF THE STATE OF MONTANA:
 5 (1) That the Department of Revenue is urged to apply
 6 rule 42-2.8(1)-S8660 in a fair and impartial manner and
 7 allow proprietorship income to be allocated to one or the
 8 other spouse in proportion to actual services rendered at a
 9 rate which equals a fair and competitive wage for the type
 10 of service actually rendered.
 11 (2) ~~That rule 42-2.8(1)-S8660 be so interpreted and~~
 12 ~~applied that, whether or not the business is jointly owned,~~
 13 ~~the value of services contributed by each spouse be~~
 14 ~~considered equal for allocation purposes whenever services~~
 15 ~~equal in kind and quantity are in fact contributed, and in~~
 16 ~~the event one spouse makes a greater or lesser contribution~~
 17 ~~that this also be considered for allocation purposes.~~

-End-

SECOND READING

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THIRD READING