

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

February 28, 1979

The thirty-seventh meeting of the committee was held on the above date in Room 415 of the State Capitol Building with Chairman Turnage presiding.

ROLL CALL: Roll call found all the members present.

CONSIDERATION OF HOUSE BILL 72: Representative Reichert introduced the bill which was at the request of the Department of Revenue, and would allow an individual income tax deduction for child and dependent expenses paid to relations other than dependents of the taxpayer or his spouse. She said Federal statutes permit this at present and she felt the state statutes should conform. Mr. Groff of the Department stated their support of the bill also.

The Chairman called for other proponents or opponents and there being none, permitted several questions from the committee. Mr. Vralsted of the Department said this legislation would bring Montana law in conformity with the federal. Following several questions and short discussion, the committee moved the bill:

Senator Manley Moved HB72 Be Concurred In. Motion carried unanimously. Note at this point absence of Senator Norman.

CONSIDERATION OF HOUSE BILL 128: Representative Harrington introduced this bill, also at the request of the D of R, and said it would extend the period during which that Department would refund overpayments of income tax to 5 years after filing or a year after overpayment occurred, or 40 months after close of a taxable year in which a net operating loss was incurred.

The Chairman called for additional proponents or opponents, and following several questions and discussion by the committee, the bill was moved:

Senator Towe Moved HB128 Be Concurred In. Motion carried unanimously.

CONSIDERATION OF HOUSE BILL 363: Representative Bertelsen presented this bill also at request of D of R, which would incorporate the IRS definition of gross income in the Montana statutes. Mr. Groff of the D of R stated they endorsed the bill saying the Department has used the federal definition but felt they should have a legal definition of the code itself. Senator Towe questioned whether or not unemployment benefits were to be included in the income. Mr. Groff replied that under the law you adopt federal regulations if state statutes do not specify.

The Chairman called for other proponents or opponents and permitted discussion of the bill by the committee. They agreed that the bill would have to be discussed further before acting upon it, especially in view of another bill, SB254, which the committee still

has before it. There was then discussion about Adjusted Gross Income and Gross Income, and about the afore-mentioned benefits being included in the federal gross income. Hearing was then closed on HB363.

CONSIDERATION OF HOUSE BILL 73: Representative Fabrega presented this bill, also a D of R request, which would change the method of calculating Adjusted Gross Income for Montana's tax purposes. Mr. Groff stated that Department's support of the bill and there followed discussion by the committee and questions regarding the bill. Hearing then closed on HB73.

CONSIDERATION OF HOUSE JOINT RESOLUTION 10: Representative Fabrega presented this resolution which urges the Congress to allow renters to deduct the portion of their rent which constitutes property tax in calculating their federal income tax. He stated that he felt the government should look at the matter and hoped by his resolution the problem might be addressed. There followed some discussion of the bill and the problem of equitable taxation.

Senator Towe Moved HJR 10 Be Concurred In. His motion carried unanimously.

The members then discussed HB73 again as well as consideration of SB184. SB184 is a fee system for motor vehicles and was heard by this committee on February 2. They consulted the charts that were part of the testimony presented on that date and suggested alternative rates of taxing vehicles in the state. The discussion continued and members mentioned inequality of car taxes, comparing them to real property which is taxed to about 56% of its value whereas motor vehicle tax is nearer 150%. Senator Severson said if the bill does not pass he plans to attempt to amend a house bill, dealing with the problem, to put a middle book value on all vehicles as he believes it would be much more equitable.

Following this discussion, meeting was adjourned.


JEAN A. TURNAGE - CHAIRMAN

Est. 41
2-28

A BILL TO AMEND SECTION 15-30-111, M.C.A. (SECTION 84-4905, R.C.M., 1947) TO PROVIDE FOR THE TAXATION OF CERTAIN LUMP-SUM SETTLEMENT INCOME PRESENTLY NOT SUBJECT TO TAX BY REASON OF CHANGES IN THE INTERNAL REVENUE CODE AND TO SPECIFICALLY PROVIDE FOR THE DEDUCTION OF CERTAIN SALARIES AND WAGES NOT DEDUCTIBLE IN DETERMINING FEDERAL ADJUSTED GROSS INCOME.

Under the Tax Reform Act of 1974, Congress changed the Federal Income Tax Law to allow persons who receive lump-sum settlement income from pension and profit sharing plans to elect to have a part of such income excluded from adjusted gross income shown on the Federal Income Tax return and to have that income subjected to tax under a special tax formula. When a taxpayer makes this election, the lump-sum settlement income is automatically excluded from Montana adjusted gross income by reason of its being excluded from Federal adjusted gross income.

Most, if not all, other states having a federally based income tax have amended their income tax laws to specifically provide for taxing the excluded lump-sum settlement income. The Department of Revenue believes that in the interests of uniformity in taxing lump-sum settlement income and ending the current revenue loss resulting from the unintended exclusion, section 15-30-111, M.C.A., should be amended as provided for under subsection (1)(c) of this bill.

As the result of the Federal Tax Reform Act of 1976, taxpayers claiming the Jobs Tax Credit for 1977 and the Targeted Jobs Credit for following taxable years are required to eliminate from their deduction for salaries and wages paid an amount equal to the credit claimed. Since salary and wage payments are deductions in determining adjusted gross income, and Montana adjusted gross income is determined by reference to Federal adjusted gross income, the technical result is to reduce the taxpayer's Montana salary and wage deduction by the same amount as required for Federal tax purposes.

Wagner

Administratively, we have been allowing the full salary and wage deduction, but several other states facing the same problem have taken the view that taxpayer's lost the wage deduction to the same extent as provided for Federal Income Tax purposes. For this reason, we believe the law should be changed as provided for in subsection (4) of this bill. Doing so will assure Montana taxpayers that they will continue to be entitled to a full deduction for salaries and wages.

This bill will have no effect on administrative costs. It will increase revenue by an amount estimated not to exceed \$50,000 per annum.

THE EFFECT ON MONTANA TAX LIABILITY OF CLAIMING THE JOBS TAX CREDIT OR THE TARGETED JOBS CREDIT ALLOWED FOR FEDERAL INCOME TAX PURPOSES.

Salaries and wages paid are a deduction in determining Federal Income Tax adjusted gross income. Under the provisions of the Internal Revenue Code in effect for the years 1977 through 1981, if the taxpayer claims the Jobs Tax Credit for 1977 and 1978 or the Targeted Jobs credit for subsequent years, he must reduce his salary and wage deduction by the amount of credit claimed against Federal Income Tax liability.

Inasmuch as Montana Income Tax adjusted gross income is the taxpayer's Federal Income Tax adjusted gross income (subject to modifications not pertinent to this explanation), when taxpayer claims the Jobs Tax Credit or the Targeted Jobs credit on his Federal return, the Montana tax authorities could restrict the Montana salary and wage deduction to the amount allowed for Federal Income Tax purposes. The Montana Department of Revenue has not done so, but other states have, and the law should be clarified to clearly permit the full salary and wage deduction in the absence of comparable Montana tax credits.

The following schedule illustrates the effect of claiming a \$5,000 Jobs Credit for Federal Income Tax purposes, if Montana were to follow the letter of the Federal law in allowing the salary and wage deduction:

	<u>Actual Net Profit</u>	<u>Tax Return Net Profit</u>
Net income before deduction for salaries and wages	\$ 50,000	\$ 50,000
Less - - deduction for salaries and wages paid	<u>25,000</u>	<u>20,000</u>
True net profit	<u>\$ 25,000</u>	
Net profit for Federal and Montana income tax purposes		<u>\$ 30,000</u>

COMPARISON OF INCOME RECOGNIZED FOR FEDERAL AND FOR MONTANA INCOME TAX PURPOSES WHEN TAXPAYER ELECTS TO HAVE LUMP-SUM SETTLEMENT INCOME TAXED UNDER THE SPECIAL TEN-YEAR AVERAGING METHOD PROVIDED FOR UNDER THE INTERNAL REVENUE CODE.

When a taxpayer who has received lump-sum settlement income elects to have it subjected to tax under the special ten-year averaging method allowed for Federal Income Tax purposes, that amount is eliminated from gross income in arriving at adjusted gross income reported on his Federal Income Tax return. Inasmuch as the Montana Income Tax Law does not provide a special method for taxing lump-sum settlement income, and Montana adjusted gross income is, by legal definition, the taxpayer's Federal Income Tax adjusted gross income (subject to modifications not applicable to this discussion), lump-sum settlement income escapes taxation under the Montana Income Tax Law if the taxpayer elects to have that income taxed under the special ten-year averaging method for Federal Income Tax purposes.

The following schedule illustrates how this exclusion occurs:

	<u>Taxpayer's Federal Return</u>	<u>Taxpayer's Montana Return</u>
Gross income	\$ 30,000	- - - - -
Deduct - - lump sum settlement income which taxpayer elects to have taxed under the ten-year averaging method	<u>10,000</u>	- - - - -
Adjusted gross income included in determining tax liability under the regular tax rate tables	\$ 20,000	\$ 20,000
Lump-sum settlement income taxed under special provisions of the Internal Revenue Code	<u>10,000</u>	<u>- 0 -</u>
Total income included in determining tax liability	<u>\$ 30,000</u>	<u>\$ 20,000</u>

STANDING COMMITTEE REPORT

February 23 19 79

MR. President

We, your committee on Taxation

having had under consideration House Joint Resolution Bill No. 10

Respectfully report as follows: That House Joint Resolution Bill No. 10

BE CONCURRED IN

~~DO-PASS~~

STANDING COMMITTEE REPORT

February 28 19 79

MR. President

We, your committee on Taxation

having had under consideration House Bill No. 123

Respectfully report as follows: That House Bill No. 123

BE CONCURRED IN

~~EXHIBIT~~
DU PASS

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STANDING COMMITTEE REPORT

February 28 19 79

MR. President

We, your committee on Taxation

having had under consideration House Bill No. 72

Respectfully report as follows: That House Bill No. 72

BE CONCURRED IN

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DU PASS

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Date FEB. 22, 1979

ROLL CALL

SENATE TAXATION COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
SEN. GOODOVER (Vice Chairman)	✓		
SEN. BROWN	✓		
SEN. HAGER	✓		
SEN. MANLEY	✓		
SEN. MANNING	✓		
SEN. McCOLLUM	✓		
SEN. NORMAN	✓		
SEN. ROSKIE	✓		
SEN. SEVERSON	✓		
SEN. TOWE	✓		
SEN. WATT	✓		
CHAIRMAN TURNAGE	✓		

Each Day Attach to Minutes.