

1 House BILL NO. 213
 2 INTRODUCED BY Bengtson
 3 Requested by Dept. of Revenue
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 5 84-4924, R.C.M. 1947, BY REDUCING THE MINIMUM LATE FILING
 6 AND LATE PAYMENT PENALTIES FROM TEN DOLLARS (\$10) TO FIVE
 7 DOLLARS (\$5); CLARIFYING THE PROVISIONS OF THAT SECTION; AND
 8 PROVIDING AN EFFECTIVE DATE."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 84-4924, R.C.M. 1947, is amended to
 12 read as follows:

13 "84-4924. Penalties for violations of act. (1) If any
 14 person, without intent to evade any tax imposed by this act,
 15 fails to make file a return of income at-the--time--required
 16 by--or--under--the--provisions--of--this--act--there--shall--be
 17 imposed--a--minimum--penalty--of--ten--dollars--(\$10)--for--such
 18 failure--or--if--a--tax--in--excess--of--two--hundred--dollars
 19 (\$200)--is--due--a--penalty--in--an--amount--equal--to--five--(5)--per
 20 centum--thereof--unless--it--is--shown--that--the--failure--was--due
 21 to--reasonable--cause--and--not--due--to--neglect--on or before its
 22 due date (determined with regard to an extension of time
 23 granted for filing the return), there shall be imposed a
 24 penalty of five percent (5%) of any balance of tax unpaid
 25 with respect to such return as of its due date, but in no

1 event shall the penalty for failure to file a return by its
 2 due date be less than five dollars (\$5). The department may
 3 abate the penalty if the taxpayer establishes that the
 4 failure to file on time was due to reasonable cause and was
 5 not due to neglect on his part. If any person, without
 6 intent to evade any tax imposed by this act, fails to pay
 7 any tax if-one-is-due-at-the-time-required-by-or-under-the
 8 provisions-of-this-act--there--shall--be--added--to--the--tax--an
 9 additional--amount--equal--to--ten--(10)--per--centum--thereof--but
 10 not--less--than--ten--dollars--(\$10)--unless--it--is--shown--that--the
 11 failure--was--due--to--reasonable--cause--and--not--due--to--neglect--
 12 interest--at--the--rate--of--nine--per--centum--(9%)--per--annum--shall
 13 be--added--to--the--tax--for--the--entire--period--it--remains--unpaid--
 14 on or before its due date (determined with regard to an
 15 extension of time granted for the filing of a return), there
 16 shall be added to the tax a penalty of ten percent (10%) of
 17 said tax, but not less than five dollars (\$5), and interest
 18 shall accrue on the tax at the rate of nine percent (9%) per
 19 annum for the entire period it remains unpaid. The
 20 department may abate the penalty if the taxpayer establishes
 21 that the failure to pay on time was due to reasonable cause
 22 and was not due to neglect on his part.

23 (2) If any person fails with intent to evade any tax
 24 imposed by this act, to make a return of income or to pay a
 25 tax if one is due at the time required by or under the

INTRODUCED BILL

1 provisions of this act there shall be added to the tax an
 2 additional amount equal to twenty-five per centum (25%)
 3 thereof, but such additional amount shall in no case be less
 4 than twenty-five dollars (\$25), and interest at one (1) per
 5 centum for each month or fraction of a month during which
 6 the tax remains unpaid.

7 (3) Any individual, corporation or partnership, or any
 8 officer or employee of any corporation, or member or
 9 employee of any partnership, who, with intent to evade any
 10 tax or any requirement of this act or any lawful requirement
 11 of the department thereunder, fails to pay the tax, or to
 12 make, render, sign or verify any return, or to supply any
 13 information, within the time required by or under the
 14 provisions of this act, or who, with like intent, makes,
 15 renders, signs, or verifies any false or fraudulent return
 16 or statement, or supplies any false or fraudulent
 17 information, shall be liable to a penalty of not more than
 18 one thousand dollars (\$1,000.00), to be recovered by the
 19 attorney general, in the name of the state, by action in any
 20 court of competent jurisdiction, and shall also be guilty of
 21 a misdemeanor and shall, upon conviction, be fined not to
 22 exceed one thousand dollars (\$1,000.00) or be imprisoned in
 23 the county jail not to exceed one (1) year, or both, at the
 24 discretion of the court.

25 (4) The certificate of the department to the effect

1 that a tax has not been paid, that a return has not been
 2 filed, or that information has not been supplied, as
 3 required by or under the provisions of this act, shall be
 4 prima facie evidence that such tax has not been paid, that
 5 such return has not been filed, or that such information has
 6 not been supplied."

7 Section 2. This act is effective upon passage and
 8 approval, and its provisions apply to taxable years ending
 9 on and after December 31, 1974.

-End-

Approved by Committee on Taxation

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12 read as follows:

13 "84-4924. Penalties for violations of act. (1) If any
 14 person, without intent to evade any tax imposed by this act,
 15 fails to make file a return of income ~~at the time required~~
 16 ~~by or under the provisions of this act, there shall be~~
 17 ~~imposed a minimum penalty of ten dollars (\$10) for such~~
 18 ~~failure, or, if a tax in excess of two hundred dollars~~
 19 ~~(\$200) is due, a penalty in an amount equal to five (5) per~~
 20 ~~centum thereof, unless it is shown that the failure was due~~
 21 ~~to reasonable cause and not due to neglect;~~ on or before its
 22 due date (determined with regard to an extension of time
 23 granted for filing the return), there shall be imposed a
 24 penalty of five percent (5%) of any balance of tax unpaid
 25 with respect to such return as of its due date, but in no

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 4 failure to file on time was due to reasonable cause and was
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 11 ~~failure was due to reasonable cause and not due to neglect.~~
 12 ~~Interest at the rate of nine per centum (9%) per annum shall~~
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