

1 *Kimble* **MULAR** *House* BILL NO. *614* *Mencher*  
 2 INTRODUCED BY *Johnson Kemmis Palmer Hill*  
 3 *Holmes Kuenneke* **VINCENT** *Harper*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTIONS *Brandon*

5 84-4901, 84-4905, 84-4907, 84-4914, 84-4915, AND 84-4931,  
 6 R.C.M. 1947, TO PROVIDE FOR THE ELIMINATION OF VARIOUS  
 7 EXCLUSIONS FROM MONTANA TAXABLE INCOME; LOWERING THE RATES  
 8 OF THE INCOME TAX; PROVIDING A TAX CREDIT FOR THE TAXPAYER  
 9 AND EACH DEPENDENT; REPEALING SECTIONS 84-4902, 84-4902.1,  
 10 84-4906, 84-4906.1, 84-4906.2, 84-4908, 84-4909, AND  
 11 84-4910, R.C.M. 1947; AND PROVIDING AN EFFECTIVE DATE."

12  
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Short title. This act shall be known as  
 15 the Income Tax Reform Act.

16 Section 2. Purpose. The legislature finds that the  
 17 loopholes in the present income tax result in great  
 18 inequities among various taxpayers. These inequities have  
 19 eroded taxpayer confidence in the basic fairness of the tax  
 20 structure. This act eliminates many of these inequities by  
 21 removing tax loopholes which have caused them.

22 Section 3. Section 84-4901, R.C.M. 1947, is amended to  
 23 read as follows:

24 "84-4901. Income tax--definitions. For the purpose of  
 25 this act chapter unless otherwise required by the context:

1 (1) The word "department" means the state department  
 2 of revenue.

3 (2) The word "taxpayer" includes any person or  
 4 fiduciary, resident or nonresident, subject to a tax imposed  
 5 by this act, and does not include corporations.

6 (3) The term "taxable year" means the taxpayer's  
 7 taxable year for federal income tax purposes.

8 (4) The word "fiduciary" means a guardian, trustee,  
 9 executor, administrator, receiver, conservator, or any  
 10 person whether individual or corporate, acting in any  
 11 fiduciary capacity for any person, trust or estate.

12 (5) The word "paid" for the purposes of the deductions  
 13 and credits under this act means paid or accrued or paid or  
 14 incurred, and the terms "paid or incurred" and "paid or  
 15 accrued" shall be construed according to the method of  
 16 accounting upon the basis of which the taxable income is  
 17 computed under this act. The term "received" for the purpose  
 18 of computation of taxable income under this act, means  
 19 received or accrued and the term "received or accrued" shall  
 20 be construed according to the method of accounting upon the  
 21 basis of which the taxable income is computed under this  
 22 act.

23 (6) The word "resident" applies only to natural  
 24 persons and includes for the purpose of determining  
 25 liability to the tax imposed by this act with reference to

1 the income of any taxable year, any person domiciled in the  
2 state of Montana, and any other person who maintains a  
3 permanent place of abode within the state even though  
4 temporarily absent from the state and has not established a  
5 residence elsewhere.

6 (7) The word "dividend" means any distribution made by  
7 a corporation out of its earnings or profits to its  
8 shareholders or members, whether in cash or in other  
9 property or in stock of the corporation, other than stock  
10 dividends as herein defined. "Stock dividends" means new  
11 stock issued, for surplus or profits capitalized, to  
12 shareholders in proportion to their previous holdings.

13 (8) The words "foreign country" or "foreign  
14 government" mean any jurisdiction other than the one  
15 embraced within the United States, its territories and  
16 possessions.

17 (9) The words "information agents" include all  
18 individuals, corporations, associations and partnerships, in  
19 whatever capacity acting, including lessees, or mortgagors  
20 of real or personal property, fiduciaries, employers, and  
21 all officers and employees of the state, or of any municipal  
22 corporation or political subdivision of the state, having  
23 the control, receipt, custody, disposal or payment of  
24 interest, rent, salaries, wages, premiums, annuities,  
25 compensations, remunerations, emoluments, or other fixed or

1 determinable annual or periodical gains, profits and income  
2 with respect to which any person or fiduciary is taxable  
3 under this act.

4 (10) The term "net income" means ~~the--adjusted--gross~~  
5 ~~income-of-a-taxpayer-less-the-deductions-allowed-by-this-act~~  
6 taxable income as defined in section 84-4905.

7 ~~{ii}-The-term-"taxable-income"-means-the-adjusted-gross~~  
8 ~~income--of--a--taxpayer--less--the-deductions-and-exemptions~~  
9 ~~provided-for-in-this-act."~~

10 Section 4. There is a new R.C.M. section numbered  
11 84-4902.2 that reads as follows:

12 84-4902.2. Rate of income tax. There shall be levied,  
13 collected and paid for each taxable year upon the taxable  
14 income of every taxpayer subject to this tax, a tax at the  
15 following rates:

16 (1) On the first two thousand dollars (\$2,000) of  
17 taxable income, or any part thereof, at the rate of one  
18 percent (1%);

19 (2) On the next two thousand dollars (\$2,000) of  
20 taxable income, or any part thereof, at the rate of two  
21 percent (2%);

22 (3) On the next three thousand dollars (\$3,000) of  
23 taxable income, or any part thereof, at the rate of three  
24 percent (3%);

25 (4) On the next three thousand dollars (\$3,000) of

1 taxable income, or any part thereof, at the rate of four  
2 percent (4%);

3 (5) On the next five thousand dollars (\$5,000) of  
4 taxable income, or any part thereof, at the rate of five  
5 percent (5%);

6 (6) On the next fifteen thousand dollars (\$15,000) of  
7 taxable income, or any part thereof, at the rate of six  
8 percent (6%);

9 (7) On any taxable income in excess of thirty thousand  
10 dollars (\$30,000) at the rate of seven percent (7%).

11 Section 5. Section 84-4905, R.C.M. 1947, is amended to  
12 read as follows:

13 "84-4905. ~~Adjusted-gross~~ Taxable income. (1) ~~Adjusted~~  
14 ~~gross~~ Taxable income shall be the taxpayer's federal income  
15 tax adjusted gross income as defined in section 62 of the  
16 Internal Revenue Code of 1954 or as that section may be  
17 labeled or amended, and in addition shall include the  
18 following:

19 (a) Interest received on obligations of another state  
20 or territory, or county, municipality, district, or other  
21 political subdivision thereof:

22 (b) ~~Refunds received of federal income tax, to the~~  
23 ~~extent the deduction of such tax resulted in a reduction of~~  
24 ~~Montana income tax liability.~~ Fifty percent (50%) of the  
25 excess of long-term capital gains over short-term capital

1 losses allowed in section 1202 of the Internal Revenue Code  
2 of 1954 or as that section may be labeled or amended as a  
3 deduction from federal income tax adjusted gross income.

4 (2) ~~Adjusted-gross~~ Taxable income does not include the  
5 following which are exempt from taxation under this act  
6 chapter:

7 ~~(a) Interest income from obligations of the United~~  
8 ~~States government, the state of Montana, county,~~  
9 ~~municipality, district, or other political subdivision~~  
10 ~~thereof:~~

11 (a) ~~(b)~~ All benefits received under the Federal  
12 Employees Retirement Act not in excess of three thousand six  
13 hundred dollars (\$3,600).

14 (b) ~~(c)~~ All benefits paid under the Montana Teachers  
15 Retirement Act which are specified as exempt from taxation  
16 by section 75-2713.

17 (c) ~~(d)~~ All benefits paid under the Montana Public  
18 Employees Act which are specified as exempt from taxation by  
19 section 68-1303.

20 (d) ~~(e)~~ All benefits paid under the Montana Highway  
21 Patrol Retirement Act which are specified as exempt from  
22 taxation by section 31-221.

23 (e) ~~(f) Montana income tax refunds or credits~~  
24 ~~thereof.~~ In the instance that there is a loss from the sales  
25 or exchanges of capital assets which has been subtracted as

1 a loss in determining federal income tax adjusted gross  
 2 income as provided by section 1211 (b) of the Internal  
 3 Revenue Code of 1954 or as that section may be labeled or  
 4 amended, the smallest of the following:

5 (i) federal income tax adjusted gross income for the  
 6 taxable year,

7 (ii) one thousand dollars (\$1,000), or

8 (iii) one half of the excess of the net long-term  
 9 capital loss over the net short-term capital gain.

10 ~~(3) In the case of a shareholder of a corporation with~~  
 11 ~~respect to which the election provided for under subchapter~~  
 12 ~~6r of the Internal Revenue Code of 1954, as amended, is in~~  
 13 ~~effect, but with respect to which the election provided for~~  
 14 ~~under section 84-1501.27, as amended, is not in effect,~~  
 15 ~~adjusted gross income does not include any part of the~~  
 16 ~~corporation's undistributed taxable income, net operating~~  
 17 ~~loss, capital gains or other gains, profits or losses~~  
 18 ~~required to be included in the shareholder's federal income~~  
 19 ~~tax adjusted gross income by reason of the said election~~  
 20 ~~under subchapter 6r. However, the shareholder's adjusted~~  
 21 ~~gross income shall include actual distribution from the~~  
 22 ~~corporation to the extent they would be treated as taxable~~  
 23 ~~dividends if the subchapter 6r election were not in effect."~~

24 Section 6. Section 84-4907, R.C.M. 1947, is amended to  
 25 read as follows:

1 "84-4907. Nonresident taxpayers. In the case of a  
 2 taxpayer other than a resident of this state, ~~adjusted-gross~~  
 3 ~~taxable~~ income includes the entire amount of ~~adjusted-gross~~  
 4 ~~taxable~~ income from sources within this state, but shall not  
 5 include income from annuities, interest on bank deposits,  
 6 interest on bonds, notes or other interest-bearing  
 7 obligations, or dividends on stock of corporations; except  
 8 to the extent to which the same shall be a part of income  
 9 from any business, trade, profession or occupation carried  
 10 on in this state. ~~Adjusted-gross~~ Taxable income from  
 11 sources within and without this state shall be allocated and  
 12 apportioned under rules and regulations prescribed by the  
 13 state department of revenue.

14 ~~In the case of a taxpayer other than a resident of this~~  
 15 ~~state, the deductions allowed in computing net income shall~~  
 16 ~~be restricted to those directly connected with the~~  
 17 ~~production of Montana income. A temporary resident shall be~~  
 18 ~~allowed those deductions allowed a resident to the extent~~  
 19 ~~that such deductions were actually incurred or expended in~~  
 20 ~~the state of Montana during the course of his residency."~~

21 Section 7. There is a new R.C.M. section numbered  
 22 84-4910.1 that reads as follows:

23 84-4910.1. Personal credits. (1) In the case of an  
 24 individual, the credits provided by this section shall be  
 25 allowed as a subtraction from the amount of tax provided by

1 section 84-4902.2.

2 (2) In the case of a taxpayer who is a resident of  
3 Montana, for each personal exemption allowed him for the  
4 taxable year by sections 151 and 152 of the Internal Revenue  
5 Code 1954 or as those sections may be labeled or amended,  
6 there shall be a personal credit of seventeen dollars and  
7 fifty cents (\$17.50) allowed to be subtracted from the  
8 amount of tax provided by section 84-4092.2.

9 (3) Any excess of the sum of the personal credits over  
10 the amount of the tax provided by section 84-4902.2 in any  
11 year may be added to the sum of the personal credits of the  
12 taxpayer in the following taxable year, and considered an  
13 integral portion of the sum of the personal credits of the  
14 taxpayer in that following taxable year. Only a taxpayer  
15 who does not provide a personal credit for another taxpayer  
16 by reason of being a dependent of that other taxpayer may  
17 add such excess of personal credits to his personal credits  
18 in the following year.

19 (4) The personal credit shall be prorated according to  
20 the ratio a non-resident taxpayer's Montana taxable income  
21 bears to his federal income tax adjusted gross income.

22 Section 8. Section 84-4914, R.C.M. 1947, is amended to  
23 read as follows:

24 "84-4914. Returns and payment of tax--penalty and  
25 interest--refunds--credits. (1) Every single individual and

1 every married individual not filing a joint return with his  
2 or her spouse and having a gross taxable income for the  
3 taxable year of more than ~~six--hundred--sixty--five--dollars~~  
4 ~~(\$665)~~ one thousand seven hundred fifty dollars (\$1,750),  
5 and married individuals not filing separate returns and  
6 having a combined gross taxable income for the taxable year  
7 of more than ~~one--thousand--three--hundred--thirty--dollars~~  
8 ~~(\$1,330)~~ two thousand seven hundred fifty dollars (\$2,750),  
9 shall be liable for a return to be filed on such forms and  
10 according to such rules and regulations as the department of  
11 revenue may prescribe. ~~The-gross-income-amounts-referred-to~~  
12 ~~in-the-preceding-sentence-shall-be-increased-by-six--hundred~~  
13 ~~dollars---(\$600)--for--each--additional--personal--exemption~~  
14 ~~allowance-the-taxpayer-is-entitled-to-claim-for-himself--and~~  
15 ~~his--spouse-under-section-84-4910-(c)-and-(d).-A-nonresident~~  
16 ~~shall-be-required-to-file-a-return-if-his-gross--income--for~~  
17 ~~the-taxable-year-derived-from-sources-within-Montana-exceeds~~  
18 ~~the--amount--of--the--exemption--deduction-he-is-entitled-to~~  
19 ~~claim-for-himself-and-his-spouse--under--the--provisions--of~~  
20 ~~section--84-4910--(b),-(c)-and-(d),-as-prorated-according-to~~  
21 ~~paragraph-(1)-of-said-section.~~ A taxpayer entitled to claim  
22 personal credits in excess of one each for himself and his  
23 spouse under section 84-4910.1 shall be required to file a  
24 return if his tax liability as calculated under section  
25 84-4902.2 exceeds the sum of the personal credits he is

1 entitled to claim for himself and his spouse under section  
 2 84-4910.1. A nonresident shall be required to file a return  
 3 if his tax liability as calculated under section 84-4902.2  
 4 exceeds the amount of personal credit he is entitled to  
 5 claim under the provisions of section 84-4910.1 (d).

6 (2) In accordance with instructions set forth by the  
 7 department, every taxpayer who is married and living with  
 8 husband or wife and is required to file a return may, at his  
 9 or her option, file a joint return with husband or wife even  
 10 though one of the spouses has neither gross income nor  
 11 deductions. If a joint return is made, the tax shall be  
 12 computed on the aggregate taxable income and the liability  
 13 with respect to the tax shall be joint and several. If a  
 14 joint return has been filed for a taxable year, the spouses  
 15 may not file separate returns after the time for filing the  
 16 return of either has expired, unless the department so  
 17 consents.

18 (3) If any such taxpayer is unable to make his own  
 19 return, the return shall be made by a duly authorized agent  
 20 or by a guardian or other person charged with the care of  
 21 the person or property of such taxpayer.

22 (4) All taxpayers, including, but not limited to those  
 23 subject to the provisions of sections 84-4939 and 84-4943,  
 24 shall compute the amount of income tax payable and shall at  
 25 the time of filing the return required by this act, pay to

1 the department any balance of income tax remaining unpaid  
 2 after crediting the amount withheld as provided by section  
 3 84-4943, and/or any payment made by reason of an estimated  
 4 tax return provided for in section 84-4939; provided  
 5 however, the tax so computed is greater by one dollar (\$1)  
 6 than the amount withheld and/or paid by estimated return as  
 7 provided in this act.

8 If the amount of tax withheld and/or payment of  
 9 estimated tax exceeds by more than one dollar (\$1) the  
 10 amount of income tax as computed, the taxpayer shall be  
 11 entitled to a refund of the excess.

12 (5) As soon as practicable after the return is filed,  
 13 the department shall examine and verify the tax.

14 (6) If the amount of tax as verified is greater than  
 15 the amount theretofore paid, the excess shall be paid by the  
 16 taxpayer to the department within thirty (30) days after  
 17 notice of the amount of the tax as computed with interest  
 18 added at the rate of nine per centum (9%) per annum or  
 19 fraction thereof on the additional tax. In such case there  
 20 shall be no penalty because of such understatement, provided  
 21 the deficiency is paid within thirty (30) days after the  
 22 first notice of the amount is mailed to the taxpayer.

23 If payment is not made within thirty (30) days or if  
 24 the understatement is due to negligence on the part of the  
 25 taxpayer, but without fraud, there shall be added to the

1 amount of the deficiency five per centum (5%) thereof,  
 2 provided, however, that no deficiency penalty shall be less  
 3 than two dollars (\$2). Interest will be computed at the rate  
 4 of nine per centum (9%) per annum or fraction thereof on the  
 5 additional assessment. Except as otherwise expressly  
 6 provided in this subdivision, the interest shall in all  
 7 cases be computed from the date the return and tax was  
 8 originally due (as distinguished from the due date as it may  
 9 have been extended) to the date of payment.

10 If the time for filing a return is extended, the  
 11 taxpayer shall pay in addition, interest thereon at the rate  
 12 of nine per centum (9%) per annum from the time when the  
 13 return was originally required to be filed to the time of  
 14 payment."

15 Section 9. Section 84-4915, R.C.M. 1947, is amended to  
 16 read as follows:

17 \*84-4915. ~~Exemption~~ Personal credit allowed  
 18 nonresident--effect of changing resident status. If a  
 19 taxpayer changes his status from that of resident to that of  
 20 nonresident, or from that of nonresident to that of  
 21 resident, during the taxable year, he shall file a return  
 22 covering the fraction of the year during which he was a  
 23 resident. The ~~exemptions~~ personal credits provided in  
 24 section ~~84-4910~~ 84-4910.1 shall be prorated on the ratio the  
 25 Montana ~~adjusted--gross~~ taxable income bears to federal

1 income tax adjusted gross income. A Montana citizen moving  
 2 out of the state; abandoning his residence in the state and  
 3 establishing a residence elsewhere, must file a return on  
 4 the fractional basis. If he obtains employment outside the  
 5 state, without abandoning his Montana residence then income  
 6 from such employment is taxable in Montana."

7 Section 10. Section 84-4931, R.C.M. 1947, is amended  
 8 to read as follows:

9 \*84-4931. Divulging information unlawful--exceptions  
 10 --penalty. (1) Except in accordance with proper judicial  
 11 order or as otherwise provided by law, it is unlawful for  
 12 the department or any deputy, assistant, agent, clerk or  
 13 other officer or employee to divulge or make known in any  
 14 manner the amount of income or any particulars set forth or  
 15 disclosed in any report or return required under this act,  
 16 or any other information secured in the administration of  
 17 this act. The officers charged with the custody of such  
 18 reports and returns shall not be required to produce any of  
 19 them or evidence of anything contained in them in any action  
 20 or proceeding in any court, except in any action or  
 21 proceeding under the provisions of this act, or any other  
 22 taxing act, to which the department is a party, or on behalf  
 23 of any party to any action or proceedings under the  
 24 provisions of this act or such other act when the reports or  
 25 facts shown thereby are directly involved in such action or

1 proceedings, in either of which events, the court may  
 2 require the production of, and may admit in evidence, so  
 3 much of said reports or of the facts shown thereby, as are  
 4 pertinent to the action or proceedings and no more. Nothing  
 5 herein shall be construed to prohibit the delivery to a  
 6 taxpayer or his duly authorized representative of a  
 7 certified copy of any return or report filed in connection  
 8 with his tax nor to prohibit the publication of statistics  
 9 so classified as to prevent the identification of particular  
 10 reports or returns and the items thereof, or the inspection  
 11 by the attorney general, or other legal representatives of  
 12 the state, of the report or return of any taxpayer who shall  
 13 bring action to set aside or review the tax based thereon,  
 14 or against whom an action or proceeding has been instituted  
 15 in accordance with the provisions of section 84-4928 and  
 16 section 84-4929. Reports and returns shall be preserved for  
 17 three (3) years and thereafter until the department orders  
 18 them to be destroyed.

19 (2) Any offense against subdivision one (1) of this  
 20 section shall be punished by a fine not exceeding one  
 21 thousand dollars (\$1,000.00), or by imprisonment in the  
 22 county jail not exceeding one (1) year, or both, at the  
 23 discretion of the court, and if the offender be an officer  
 24 or employee of the state, he shall be dismissed from office  
 25 and be incapable of holding any public office in this state

1 for a period of one (1) year, thereafter.

2 (3) Notwithstanding the provisions of this section, the  
 3 department may permit the commissioner of internal revenue  
 4 of the United States, or the proper officer of any state  
 5 imposing a tax upon the incomes of individuals, or the  
 6 authorized representatives of either such officer, to  
 7 inspect the returns of income of any individuals, or may  
 8 furnish to such officer or his authorized representatives an  
 9 abstract of the return of income of any individual or supply  
 10 him with information concerning any item of income contained  
 11 in any return, or disclosed by the report of any  
 12 investigation of the income or return of income of any  
 13 individual, but such permission shall be granted or such  
 14 information furnished to such officer or his representative,  
 15 only if the statutes of the United States or of such other  
 16 state, as the case may be, grant substantially similar  
 17 privileges to the proper officer of this state charged with  
 18 the administration of this act.

19 (4) Further, notwithstanding any of the provisions of  
 20 this section, the department shall furnish to the Montana  
 21 highway patrol board all information necessary to identify  
 22 those persons qualifying for the additional exemption for  
 23 blindness pursuant to section ~~84-4910~~ 84-4910.1 (d), for the  
 24 purpose of enabling said highway patrol board to administer  
 25 the provisions of section 31-127, R.C.M. 1947."



1       Section 11. Severability. If any provision of this  
2 act or the application thereto to any person or circumstance  
3 is held invalid, the invalidity does not affect other  
4 provisions or applications of the act which can be given  
5 effect without the invalid provision or application, and to  
6 this end the provisions of this act are severable.

7       Section 12. Repealer. Sections 84-4902, 84-4902.1,  
8 84-4906, 84-4906.1, 84-4906.2, 84-4908, 84-4909, and  
9 84-4910, R.C.M. 1947, are repealed.

10       Section 13. This act is effective for all taxable  
11 years commencing after December 31, 1975.

-End-

## STATE OF MONTANA

REQUEST NO. 202-75

## FISCAL NOTE

Form BD-15

In compliance with a written request received February 11, 1975, there is hereby submitted a Fiscal Note for House Bill 614 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:

An act to define Montana taxable income as federal adjusted gross income with certain modifications, eliminate various exclusions from taxable income, lower the Montana income tax rate, repeal the surtax, and substitute tax credits for personal exemptions. The act is effective for taxable years beginning after December 31, 1975.

## ASSUMPTIONS:

1. Income tax data available do not provide information on capital gain or capital loss deductions. Therefore, it is assumed for purposes of the revenue estimates that Montana taxable income under the proposed law will equal federal adjusted gross income.
2. Federal adjusted gross income is approximately 1.085% of Montana adjusted gross income under current law.
3. Montana adjusted gross income will be \$2.560 billion for CY 75, \$2.819 billion for CY 76, and \$3.071 billion for CY 77.
4. The effective tax rate under the proposed law will be 3.65% in CY 75, 3.80% in CY 76 and 3.96% in CY 77.
5. Withholding tables will be adjusted for the balance of CY 75 to reflect change in tax on the entire year's income. Thus, all of CY 75 loss will be realized in FY 76 plus ¼ of CY 76 loss; ¾ of CY 76 loss and ¼ of CY 77 loss will be realized in FY 77.
6. There will be no additional expenditures or cost savings to the Department of Revenue.

## FISCAL IMPACT:

	FY 76	FY 77
Income tax collections under current law	\$ 104.81 million	\$ 124.15 million
Income tax collections under proposed law	<u>90.09 million</u>	<u>108.50 million</u>
Decrease in collections	<u>\$ 14.72 million</u>	<u>\$ 15.65 million</u>

## CONCLUSION:

Enactment of House Bill 614 would result in a revenue loss of \$30.37 million during the 1975-77 biennium. Income tax collections are allocated 64% to the General Fund, 25% to the Public School Equalization, ERA, and 11% to the Long-Range Building Program.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: February 22, 1975

Objection Raised to  
Adverse Committee Report

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 3 *Johnson* *Kemmis* *Palmer* *Hilke*  
 4 *Holmes* *Hueneke* *VINCENT* *Harper*  
 5 *Stewart* *Jedrus* *Bran*

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1 (1) The word "department" means the state department  
 2 of revenue.

3 (2) The word "taxpayer" includes any person or  
 4 fiduciary, resident or nonresident, subject to a tax imposed  
 5 by this act, and does not include corporations.

6 (3) The term "taxable year" means the taxpayer's  
 7 taxable year for federal income tax purposes.

8 (4) The word "fiduciary" means a guardian, trustee,  
 9 executor, administrator, receiver, conservator, or any  
 10 person whether individual or corporate, acting in any  
 11 fiduciary capacity for any person, trust or estate.

12 (5) The word "paid" for the purposes of the deductions  
 13 and credits under this act means paid or accrued or paid or  
 14 incurred, and the terms "paid or incurred" and "paid or  
 15 accrued" shall be construed according to the method of  
 16 accounting upon the basis of which the taxable income is  
 17 computed under this act. The term "received" for the purpose  
 18 of computation of taxable income under this act, means  
 19 received or accrued and the term "received or accrued" shall  
 20 be construed according to the method of accounting upon the  
 21 basis of which the taxable income is computed under this  
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23 (6) The word "resident" applies only to natural  
 24 persons and includes for the purpose of determining  
 25 liability to the tax imposed by this act with reference to

1 the income of any taxable year, any person domiciled in the  
2 state of Montana, and any other person who maintains a  
3 permanent place of abode within the state even though  
4 temporarily absent from the state and has not established a  
5 residence elsewhere.

6 (7) The word "dividend" means any distribution made by  
7 a corporation out of its earnings or profits to its  
8 shareholders or members, whether in cash or in other  
9 property or in stock of the corporation, other than stock  
10 dividends as herein defined. "Stock dividends" means new  
11 stock issued, for surplus or profits capitalized, to  
12 shareholders in proportion to their previous holdings.

13 (8) The words "foreign country" or "foreign  
14 government" mean any jurisdiction other than the one  
15 embraced within the United States, its territories and  
16 possessions.

17 (9) The words "information agents" include all  
18 individuals, corporations, associations and partnerships, in  
19 whatever capacity acting, including lessees, or mortgagors  
20 of real or personal property, fiduciaries, employers, and  
21 all officers and employees of the state, or of any municipal  
22 corporation or political subdivision of the state, having  
23 the control, receipt, custody, disposal or payment of  
24 interest, rent, salaries, wages, premiums, annuities,  
25 compensations, remunerations, emoluments, or other fixed or

1 determinable annual or periodical gains, profits and income  
2 with respect to which any person or fiduciary is taxable  
3 under this act.

4 (10) The term "net income" means ~~the adjusted gross~~  
5 ~~income of a taxpayer less the deductions allowed by this act~~  
6 taxable income as defined in section 84-4905.

7 ~~(11) The term "taxable income" means the adjusted gross~~  
8 ~~income of a taxpayer less the deductions and exemptions~~  
9 ~~provided for in this act."~~

10 Section 4. There is a new R.C.M. section numbered  
11 84-4902.2 that reads as follows:

12 84-4902.2. Rate of income tax. There shall be levied,  
13 collected and paid for each taxable year upon the taxable  
14 income of every taxpayer subject to this tax, a tax at the  
15 following rates:

16 (1) On the first two thousand dollars (\$2,000) of  
17 taxable income, or any part thereof, at the rate of one  
18 percent (1%);

19 (2) On the next two thousand dollars (\$2,000) of  
20 taxable income, or any part thereof, at the rate of two  
21 percent (2%);

22 (3) On the next three thousand dollars (\$3,000) of  
23 taxable income, or any part thereof, at the rate of three  
24 percent (3%);

25 (4) On the next three thousand dollars (\$3,000) of

1 taxable income, or any part thereof, at the rate of four  
2 percent (4%);

3 (5) On the next five thousand dollars (\$5,000) of  
4 taxable income, or any part thereof, at the rate of five  
5 percent (5%);

6 (6) On the next fifteen thousand dollars (\$15,000) of  
7 taxable income, or any part thereof, at the rate of six  
8 percent (6%);

9 (7) On any taxable income in excess of thirty thousand  
10 dollars (\$30,000) at the rate of seven percent (7%).

11 Section 5. Section 84-4905, R.C.M. 1947, is amended to  
12 read as follows:

13 "84-4905. Adjusted-gross Taxable income. (1) Adjusted  
14 gross Taxable income shall be the taxpayer's federal income  
15 tax adjusted gross income as defined in section 62 of the  
16 Internal Revenue Code of 1954 or as that section may be  
17 labeled or amended, and in addition shall include the  
18 following:

19 (a) Interest received on obligations of another state  
20 or territory, or county, municipality, district, or other  
21 political subdivision thereof:

22 (b) ~~Refunds received of federal income tax, to the~~  
23 ~~extent the deduction of such tax resulted in a reduction of~~  
24 ~~Montana income tax liability. Fifty percent (50%) of the~~  
25 excess of long-term capital gains over short-term capital

1 losses allowed in section 1202 of the Internal Revenue Code  
2 of 1954 or as that section may be labeled or amended as a  
3 deduction from federal income tax adjusted gross income.

4 (2) Adjusted-gross Taxable income does not include the  
5 following which are exempt from taxation under this act  
6 chapter:

7 ~~(a) Interest income from obligations of the United~~  
8 ~~States government, the state of Montana, county,~~  
9 ~~municipality, district, or other political subdivision~~  
10 ~~thereof.~~

11 (a) ~~(b)~~ All benefits received under the Federal  
12 Employees Retirement Act not in excess of three thousand six  
13 hundred dollars (\$3,600).

14 (b) ~~(c)~~ All benefits paid under the Montana Teachers  
15 Retirement Act which are specified as exempt from taxation  
16 by section 75-2713.

17 (c) ~~(d)~~ All benefits paid under the Montana Public  
18 Employees Act which are specified as exempt from taxation by  
19 section 68-1303.

20 (d) ~~(e)~~ All benefits paid under the Montana Highway  
21 Patrol Retirement Act which are specified as exempt from  
22 taxation by section 31-221.

23 (e) ~~(f)~~ ~~Montana income tax refunds or credits~~  
24 thereof. In the instance that there is a loss from the sales  
25 or exchanges of capital assets which has been subtracted as

1 a loss in determining federal income tax adjusted gross  
 2 income as provided by section 1211 (b) of the Internal  
 3 Revenue Code of 1954 or as that section may be labeled or  
 4 amended, the smallest of the following:

5 (i) federal income tax adjusted gross income for the  
 6 taxable year,

7 (ii) one thousand dollars (\$1,000), or

8 (iii) one half of the excess of the net long-term  
 9 capital loss over the net short-term capital gain.

10 ~~(3) In the case of a shareholder of a corporation with~~  
 11 ~~respect to which the election provided for under subchapter~~  
 12 ~~5r of the Internal Revenue Code of 1954, as amended, is in~~  
 13 ~~effect, but with respect to which the election provided for~~  
 14 ~~under section 84-1501.27, as amended, is not in effect,~~  
 15 ~~adjusted gross income does not include any part of the~~  
 16 ~~corporation's undistributed taxable income, net operating~~  
 17 ~~loss, capital gains or other gains, profits or losses~~  
 18 ~~required to be included in the shareholder's federal income~~  
 19 ~~tax adjusted gross income by reason of the said election~~  
 20 ~~under subchapter 5r. However, the shareholder's adjusted~~  
 21 ~~gross income shall include actual distribution from the~~  
 22 ~~corporation to the extent they would be treated as taxable~~  
 23 ~~dividends if the subchapter 5r election were not in effect."~~

24 Section 6. Section 84-4907, R.C.M. 1947, is amended to  
 25 read as follows:

1 "84-4907. Nonresident taxpayers. In the case of a  
 2 taxpayer other than a resident of this state, adjusted-gross  
 3 taxable income includes the entire amount of adjusted-gross  
 4 taxable income from sources within this state, but shall not  
 5 include income from annuities, interest on bank deposits,  
 6 interest on bonds, notes or other interest-bearing  
 7 obligations, or dividends on stock of corporations; except  
 8 to the extent to which the same shall be a part of income  
 9 from any business, trade, profession or occupation carried  
 10 on in this state. Adjusted-gross Taxable income from  
 11 sources within and without this state shall be allocated and  
 12 apportioned under rules and regulations prescribed by the  
 13 state department of revenue.

14 ~~In the case of a taxpayer other than a resident of this~~  
 15 ~~state, the deductions allowed in computing net income shall~~  
 16 ~~be restricted to those directly connected with the~~  
 17 ~~production of Montana income. A temporary resident shall be~~  
 18 ~~allowed those deductions allowed a resident to the extent~~  
 19 ~~that such deductions were actually incurred or expended in~~  
 20 ~~the state of Montana during the course of his residency."~~

21 Section 7. There is a new R.C.M. section numbered  
 22 84-4910.1 that reads as follows:

23 84-4910.1. Personal credits. (1) In the case of an  
 24 individual, the credits provided by this section shall be  
 25 allowed as a subtraction from the amount of tax provided by

1 section 84-4902.2.

2 (2) In the case of a taxpayer who is a resident of  
3 Montana, for each personal exemption allowed him for the  
4 taxable year by sections 151 and 152 of the Internal Revenue  
5 Code 1954 or as those sections may be labeled or amended,  
6 there shall be a personal credit of seventeen dollars and  
7 fifty cents (\$17.50) allowed to be subtracted from the  
8 amount of tax provided by section 84-4092.2.

9 (3) Any excess of the sum of the personal credits over  
10 the amount of the tax provided by section 84-4902.2 in any  
11 year may be added to the sum of the personal credits of the  
12 taxpayer in the following taxable year, and considered an  
13 integral portion of the sum of the personal credits of the  
14 taxpayer in that following taxable year. Only a taxpayer  
15 who does not provide a personal credit for another taxpayer  
16 by reason of being a dependent of that other taxpayer may  
17 add such excess of personal credits to his personal credits  
18 in the following year.

19 (4) The personal credit shall be prorated according to  
20 the ratio a non-resident taxpayer's Montana taxable income  
21 bears to his federal income tax adjusted gross income.

22 Section 8. Section 84-4914, R.C.M. 1947, is amended to  
23 read as follows:

24 "84-4914. Returns and payment of tax--penalty and  
25 interest--refunds--credits. (1) Every single individual and

1 every married individual not filing a joint return with his  
2 or her spouse and having a gross taxable income for the  
3 taxable year of more than ~~six--hundred--sixty-five--dollars~~  
4 ~~(\$665)~~ one thousand seven hundred fifty dollars (\$1,750),  
5 and married individuals not filing separate returns and  
6 having a combined gross taxable income for the taxable year  
7 of more than ~~one--thousand--three--hundred--thirty--dollars~~  
8 ~~(\$1,330)~~ two thousand seven hundred fifty dollars (\$2,750),  
9 shall be liable for a return to be filed on such forms and  
10 according to such rules and regulations as the department of  
11 revenue may prescribe. ~~The-gross-income-amounts-referred-to~~  
12 ~~in-the-preceding-sentence-shall-be-increased-by-six-hundred~~  
13 ~~dollars---(\$600)---for--each--additional--personal--exemption~~  
14 ~~allowance-the-taxpayer-is-entitled-to-claim-for-himself--and~~  
15 ~~his--spouse-under-section-84-4910-(c)-and-(d).-A-nonresident~~  
16 ~~shall-be-required-to-file-a-return-if-his-gross--income--for~~  
17 ~~the-taxable-year-derived-from-sources-within-Montana-exceeds~~  
18 ~~the--amount--of--the--exemption--deduction-he-is-entitled-to~~  
19 ~~claim-for-himself-and-his-spouse--under--the--provisions--of~~  
20 ~~section--84-4910--(b),-(c)-and-(d)-as-prorated-according-to~~  
21 ~~paragraph-(i)-of-said-section.~~ A taxpayer entitled to claim  
22 personal credits in excess of one each for himself and his  
23 spouse under section 84-4910.1 shall be required to file a  
24 return if his tax liability as calculated under section  
25 84-4902.2 exceeds the sum of the personal credits he is

1 entitled to claim for himself and his spouse under section  
 2 84-4910.1. A nonresident shall be required to file a return  
 3 if his tax liability as calculated under section 84-4902.2  
 4 exceeds the amount of personal credit he is entitled to  
 5 claim under the provisions of section 84-4910.1 (d).

6 (2) In accordance with instructions set forth by the  
 7 department, every taxpayer who is married and living with  
 8 husband or wife and is required to file a return may, at his  
 9 or her option, file a joint return with husband or wife even  
 10 though one of the spouses has neither gross income nor  
 11 deductions. If a joint return is made, the tax shall be  
 12 computed on the aggregate taxable income and the liability  
 13 with respect to the tax shall be joint and several. If a  
 14 joint return has been filed for a taxable year, the spouses  
 15 may not file separate returns after the time for filing the  
 16 return of either has expired, unless the department so  
 17 consents.

18 (3) If any such taxpayer is unable to make his own  
 19 return, the return shall be made by a duly authorized agent  
 20 or by a guardian or other person charged with the care of  
 21 the person or property of such taxpayer.

22 (4) All taxpayers, including, but not limited to those  
 23 subject to the provisions of sections 84-4939 and 84-4943,  
 24 shall compute the amount of income tax payable and shall at  
 25 the time of filing the return required by this act, pay to

1 the department any balance of income tax remaining unpaid  
 2 after crediting the amount withheld as provided by section  
 3 84-4943, and/or any payment made by reason of an estimated  
 4 tax return provided for in section 84-4939; provided  
 5 however, the tax so computed is greater by one dollar (\$1)  
 6 than the amount withheld and/or paid by estimated return as  
 7 provided in this act.

8 If the amount of tax withheld and/or payment of  
 9 estimated tax exceeds by more than one dollar (\$1) the  
 10 amount of income tax as computed, the taxpayer shall be  
 11 entitled to a refund of the excess.

12 (5) As soon as practicable after the return is filed,  
 13 the department shall examine and verify the tax.

14 (6) If the amount of tax as verified is greater than  
 15 the amount theretofore paid, the excess shall be paid by the  
 16 taxpayer to the department within thirty (30) days after  
 17 notice of the amount of the tax as computed with interest  
 18 added at the rate of nine per centum (9%) per annum or  
 19 fraction thereof on the additional tax. In such case there  
 20 shall be no penalty because of such understatement, provided  
 21 the deficiency is paid within thirty (30) days after the  
 22 first notice of the amount is mailed to the taxpayer.

23 If payment is not made within thirty (30) days or if  
 24 the understatement is due to negligence on the part of the  
 25 taxpayer, but without fraud, there shall be added to the



1 amount of the deficiency five per centum (5%) thereof,  
 2 provided, however, that no deficiency penalty shall be less  
 3 than two dollars (\$2). Interest will be computed at the rate  
 4 of nine per centum (9%) per annum or fraction thereof on the  
 5 additional assessment. Except as otherwise expressly  
 6 provided in this subdivision, the interest shall in all  
 7 cases be computed from the date the return and tax was  
 8 originally due (as distinguished from the due date as it may  
 9 have been extended) to the date of payment.

10 If the time for filing a return is extended, the  
 11 taxpayer shall pay in addition, interest thereon at the rate  
 12 of nine per centum (9%) per annum from the time when the  
 13 return was originally required to be filed to the time of  
 14 payment."

15 Section 9. Section 84-4915, R.C.M. 1947, is amended to  
 16 read as follows:

17 "84-4915. ~~Exemption~~ Personal credit allowed  
 18 nonresident--effect of changing resident status. If a  
 19 taxpayer changes his status from that of resident to that of  
 20 nonresident, or from that of nonresident to that of  
 21 resident, during the taxable year, he shall file a return  
 22 covering the fraction of the year during which he was a  
 23 resident. The ~~exemptions~~ personal credits provided in  
 24 section ~~84-4910~~ 84-4910.1 shall be prorated on the ratio the  
 25 Montana ~~adjusted--gross~~ taxable income bears to federal

1 income tax adjusted gross income. A Montana citizen moving  
 2 out of the state; abandoning his residence in the state and  
 3 establishing a residence elsewhere, must file a return on  
 4 the fractional basis. If he obtains employment outside the  
 5 state, without abandoning his Montana residence then income  
 6 from such employment is taxable in Montana."

7 Section 10. Section 84-4931, R.C.M. 1947, is amended  
 8 to read as follows:

9 "84-4931. Divulging information unlawful--exceptions  
 10 --penalty. (1) Except in accordance with proper judicial  
 11 order or as otherwise provided by law, it is unlawful for  
 12 the department or any deputy, assistant, agent, clerk or  
 13 other officer or employee to divulge or make known in any  
 14 manner the amount of income or any particulars set forth or  
 15 disclosed in any report or return required under this act,  
 16 or any other information secured in the administration of  
 17 this act. The officers charged with the custody of such  
 18 reports and returns shall not be required to produce any of  
 19 them or evidence of anything contained in them in any action  
 20 or proceeding in any court, except in any action or  
 21 proceeding under the provisions of this act, or any other  
 22 taxing act, to which the department is a party, or on behalf  
 23 of any party to any action or proceedings under the  
 24 provisions of this act or such other act when the reports or  
 25 facts shown thereby are directly involved in such action or

1 proceedings, in either of which events, the court may  
 2 require the production of, and may admit in evidence, so  
 3 much of said reports or of the facts shown thereby, as are  
 4 pertinent to the action or proceedings and no more. Nothing  
 5 herein shall be construed to prohibit the delivery to a  
 6 taxpayer or his duly authorized representative of a  
 7 certified copy of any return or report filed in connection  
 8 with his tax nor to prohibit the publication of statistics  
 9 so classified as to prevent the identification of particular  
 10 reports or returns and the items thereof, or the inspection  
 11 by the attorney general, or other legal representatives of  
 12 the state, of the report or return of any taxpayer who shall  
 13 bring action to set aside or review the tax based thereon,  
 14 or against whom an action or proceeding has been instituted  
 15 in accordance with the provisions of section 84-4928 and  
 16 section 84-4929. Reports and returns shall be preserved for  
 17 three (3) years and thereafter until the department orders  
 18 them to be destroyed.

19 (2) Any offense against subdivision one (1) of this  
 20 section shall be punished by a fine not exceeding one  
 21 thousand dollars (\$1,000.00), or by imprisonment in the  
 22 county jail not exceeding one (1) year, or both, at the  
 23 discretion of the court, and if the offender be an officer  
 24 or employee of the state, he shall be dismissed from office  
 25 and be incapable of holding any public office in this state

1 for a period of one (1) year, thereafter.

2 (3) Notwithstanding the provisions of this section, the  
 3 department may permit the commissioner of internal revenue  
 4 of the United States, or the proper officer of any state  
 5 imposing a tax upon the incomes of individuals, or the  
 6 authorized representatives of either such officer, to  
 7 inspect the returns of income of any individuals, or may  
 8 furnish to such officer or his authorized representatives an  
 9 abstract of the return of income of any individual or supply  
 10 him with information concerning any item of income contained  
 11 in any return, or disclosed by the report of any  
 12 investigation of the income or return of income of any  
 13 individual, but such permission shall be granted or such  
 14 information furnished to such officer or his representative,  
 15 only if the statutes of the United States or of such other  
 16 state, as the case may be, grant substantially similar  
 17 privileges to the proper officer of this state charged with  
 18 the administration of this act.

19 (4) Further, notwithstanding any of the provisions of  
 20 this section, the department shall furnish to the Montana  
 21 highway patrol board all information necessary to identify  
 22 those persons qualifying for the additional exemption for  
 23 blindness pursuant to section ~~84-4910~~ 84-4910.1 (d), for the  
 24 purpose of enabling said highway patrol board to administer  
 25 the provisions of section 31-127, R.C.M. 1947."

1           Section 11. Severability. If any provision of this  
2 act or the application thereto to any person or circumstance  
3 is held invalid, the invalidity does not affect other  
4 provisions or applications of the act which can be given  
5 effect without the invalid provision or application, and to  
6 this end the provisions of this act are severable.

7           Section 12. Repealer. Sections 84-4902, 84-4902.1,  
8 84-4906, 84-4906.1, 84-4906.2, 84-4908, 84-4909, and  
9 84-4910, R.C.M. 1947, are repealed.

10           Section 13. This act is effective for all taxable  
11 years commencing after December 31, 1975.

-End-