

1 HB BILL NO. 104
 2 INTRODUCED BY Bentley - Feltz Krapp
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
 6 84-4914, R.C.M., 1947, BY INCREASING THE GROSS INCOME
 7 LIMITATIONS ESTABLISHING LIABILITY FOR FILING TAX RETURNS;
 8 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

11 Section 1. Section 84-4914, R.C.M. 1947, is amended to
 12 read as follows:

13 "84-4914. Returns and payment of tax -- penalty and
 14 interest -- refunds -- credits. (1) Every single individual
 15 and every married individual not filing a joint return with
 16 his or her spouse and having a gross income for the taxable
 17 year of more than ~~six-hundred-sixty-five-dollars-(\$665)~~
 18 \$720, and married individuals not filing separate returns
 19 and having a combined gross income for the taxable year of
 20 more than ~~one-thousand-three-hundred-thirty-dollars-(\$1330)~~
 21 \$1445, shall be liable for a return to be filed on such
 22 forms and according to such rules and regulations as the
 23 department of revenue may prescribe. The gross income
 24 amounts referred to in the preceding sentence shall be
 25 increased by ~~six-hundred-dollars-(\$600)~~ \$650 for each

1 additional personal exemption allowance the taxpayer is
 2 entitled to claim for himself and his spouse under section
 3 84-4910(c) and (d). A nonresident shall be required to file
 4 a return if his gross income for the taxable year derived
 5 from sources within Montana exceeds the amount of the
 6 exemption deduction he is entitled to claim for himself and
 7 his spouse under the provisions of section 84-4910(b), (c)
 8 and (d), as prorated according to paragraph (i) of said
 9 section.

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

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

INTRODUCED BILL

HB104

1 (4) All taxpayers, including, but not limited to those
 2 subject to the provisions of sections 84-4939 and 84-4943,
 3 shall compute the amount of income tax payable and shall at
 4 the time of filing the return required by this act, pay to
 5 the department any balance of income tax remaining unpaid
 6 after crediting the amount withheld as provided by section
 7 84-4943, and/or any payment made by reason of an estimated
 8 tax return provided for in section 84-4939; provided
 9 however, the tax so computed is greater by one-dollar-~~(\$1)~~
 10 than the amount withheld and/or paid by estimated return as
 11 provided in this act.

12 If the amount of tax withheld and/or payment of
 13 estimated tax exceeds by more than one-dollar-~~(\$1)~~ the
 14 amount of income tax as computed, the taxpayer shall be
 15 entitled to a refund of the excess.

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

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

1 first notice of the amount is mailed to the taxpayer.

2 If payment is not made within thirty-~~(30)~~ days or if
 3 the understatement is due to negligence on the part of the
 4 taxpayer, but without fraud, there shall be added to the
 5 amount of the deficiency five-per-centum-~~(5%)~~ thereof,
 6 provided, however, that no deficiency penalty shall be less
 7 than two-dollars-~~(\$2)~~. Interest will be computed at the rate
 8 of nine-per-centum-~~(9%)~~ per annum or fraction thereof on the
 9 additional assessment. Except as otherwise expressly
 10 provided in this subdivision, the interest shall in all
 11 cases be computed from the date the return and tax was
 12 originally due ~~(as distinguished from the due date as it may~~
 13 ~~have been extended)~~ to the date of payment.

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

19 Section 2. Effective date. This act is effective on
 20 its passage and approval and shall apply to returns for tax
 21 years ending on or after December 31, 1976.

-End-

STATE OF MONTANA

REQUEST NO. 25-77

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 Bill 104 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

The proposed legislation increases the gross income limits which govern liability for filing individual income tax returns.

EXPLANATION

The 1974 session raised the personal exemption to \$650 from \$600. However, no changes were made in criteria for filing. Hence, under the present law, individuals and married couples are required by law to file returns even though they have zero taxable income and thus no income tax liability. Under current law such persons could be subject to a penalty for not filing a return even though they have no tax liability.

The proposed legislation will have no effect on state revenues or expenditures.

Richard L. Drayton
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-12-77

Approved by Committee
on Taxation

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18 \$720, and married individuals not filing separate returns
19 and having a combined gross income for the taxable year of
20 more than ~~one-thousand-three-hundred-thirty-dollars-(\$1,330)~~
21 \$1,445, shall be liable for a return to be filed on such
22 forms and according to such rules and regulations as the
23 department of revenue may prescribe. The gross income
24 amounts referred to in the preceding sentence shall be
25 increased by ~~six-hundred-dollars-(\$600)~~ \$650 for each

1 additional personal exemption allowance the taxpayer is
2 entitled to claim for himself and his spouse under section
3 84-4910(c) and (d). A nonresident shall be required to file
4 a return if his gross income for the taxable year derived
5 from sources within Montana exceeds the amount of the
6 exemption deduction he is entitled to claim for himself and
7 his spouse under the provisions of section 84-4910(b), (c)
8 and (d), as prorated according to paragraph (i) of said
9 section.

10 (2) In accordance with instructions set forth by the
11 department, every taxpayer who is married and living with
12 husband or wife and is required to file a return may, at his
13 or her option, file a joint return with husband or wife even
14 though one of the spouses has neither gross income nor
15 deductions. If a joint return is made, the tax shall be
16 computed on the aggregate taxable income and the liability
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