

1 H BILL NO. 469  
 2 INTRODUCED BY F. [Signature] MULLEN  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE  
 5 CIRCUMSTANCES UNDER WHICH THE STATUTE OF LIMITATIONS ON  
 6 DEFICIENCY ASSESSMENTS FOR CORPORATION LICENSE OR INDIVIDUAL  
 7 INCOME TAXES MAY BE WAIVED; AMENDING SECTIONS 84-1508.2 AND  
 8 84-4920.1, R.C.M. 1947."  
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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 84-1508.2, R.C.M. 1947, is amended  
 12 to read as follows:

13 "84-1508.2. Periods of limitation -- limitations for  
 14 notification of additional tax extended if taxpayer fails to  
 15 report change in federal tax -- waiver. (1) Except as  
 16 otherwise provided in this section and in section 84-1513,  
 17 R.C.M. 1947, no deficiency shall be assessed or collected  
 18 with respect to the year for which a return is filed unless  
 19 the notice of additional tax proposed to be assessed is  
 20 mailed within five (5) years from the date the return was  
 21 filed. For the purposes of this section a return filed  
 22 before the last day prescribed for filing shall be  
 23 considered as filed on such last day. Where before the  
 24 expiration of the period prescribed for assessment of the  
 25 tax, the taxpayer consents in writing to an assessment after

1 the time, the tax may be assessed at any time prior to the  
 2 expiration of the period agreed upon. The limitations  
 3 prescribed for giving notice of a proposed assessment of  
 4 additional tax shall not apply when

5 (a) the taxpayer has by written agreement suspended  
 6 the federal statute of limitations for collection of federal  
 7 tax, provided the suspension of the limitation set forth in  
 8 this section shall last only so long as

9 (i) the suspension of the federal statute of  
 10 limitation, or

11 (ii) until one (1) year after any federal changes have  
 12 become final or any amended federal return is filed as a  
 13 result of such suspension of the federal statute, whichever  
 14 is the latest in time, or

15 (b) when a taxpayer has failed to file a report of  
 16 changes in federal taxable income or an amended return as  
 17 required by section 84-1517, R.C.M. 1947, until five (5)  
 18 years after the federal changes become final or the amended  
 19 federal return was filed, whichever the case may be.

20 ~~(2) The foregoing suspension of the limitation period~~  
 21 ~~set forth in this section is limited to deficiencies arising~~  
 22 ~~as a result of either changes made in federal taxable income~~  
 23 ~~by the internal revenue service or changes arising from the~~  
 24 ~~filing of an amended federal return.~~

25 ~~(2)(3)~~ No refund or credit shall be allowed or paid

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1 with respect to the year for which a return is filed after  
 2 five (5) years from the last day prescribed for filing the  
 3 return or after one (1) year from the date of the  
 4 overpayment, whichever period expires the later, unless  
 5 before the expiration of such period the taxpayer files a  
 6 claim therefor or the state department of revenue has  
 7 determined the existence of the overpayment and has approved  
 8 the refund or credit thereof. If the taxpayer has agreed in  
 9 writing under the provisions of subsection (1) of this  
 10 section to extend the time within which the state department  
 11 of revenue may propose an additional assessment, the period  
 12 within which a claim for refund or credit may be filed, or a  
 13 credit or refund allowed in the event no claim is filed,  
 14 shall automatically be so extended."

15 Section 2. Section 84-4920.1, R.C.M. 1947, is amended  
 16 to read as follows:

17 "84-4920.1. Suspension of running of statute of  
 18 limitations -- grounds. The running of the statute of  
 19 limitations provided for under section 84-4920 shall be  
 20 suspended during any period that the federal statute of  
 21 limitations for collection of federal income tax has been  
 22 suspended by (1) written agreement signed by the taxpayer  
 23 or, (2) when the taxpayer has instituted an action which has  
 24 the effect of suspending the running of the federal statute  
 25 of limitations, and for one (1) additional year. If the

1 taxpayer fails to file a record of changes in federal  
 2 taxable income or an amended return as required by section  
 3 84-4938, the said statute of limitations shall not apply  
 4 until five years from the date the federal changes become  
 5 final or the amended federal return was filed. The foregoing  
 6 suspension of the limitation period is limited to  
 7 deficiencies arising as a result of either changes made in  
 8 federal taxable income by the internal revenue service or  
 9 changes arising from the filing of an amended federal  
 10 return. If the taxpayer omits from gross income an amount  
 11 properly includable therein which is in excess of  
 12 twenty-five per cent (25%) of the amount of adjusted gross  
 13 income stated in the return the said statute of limitations  
 14 shall not apply for two additional years from the time  
 15 specified in section 84-4920."

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