

CHAPTER NO. 636.

HOUSE BILL NO. 269

INTRODUCED BY YARDLEY, DUSSAULT, SCULLY, EUDAILY

IN THE HOUSE

January 19, 1979	Introduced and referred to Committee on Judiciary.
January 25, 1979	Rereferred to Committee on Taxation.
March 22, 1979	Committee recommend bill do pass as amended. Report adopted.
March 24, 1979	Printed and placed on members' desks.
March 26, 1979	Second reading, do pass.
March 27, 1979	Considered correctly engrossed. Third reading, passed. Transmitted to second house.

IN THE SENATE

March 27, 1979	Introduced and referred to Committee on Taxation.
April 6, 1979	Committee recommend bill be concurred in. Report adopted.
April 9, 1979	Second reading, concurred in.
April 11, 1979	Third reading, concurred in.

IN THE HOUSE

April 12, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 HOUSE BILL NO. 269
 2 INTRODUCED BY *Charles Edmund Sully*
 3 *Eutaw*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE
 5 DISTINCTION FOR INHERITANCE TAX PURPOSES BETWEEN A SURVIVING
 6 JOINT TENANT WHO IS THE SPOUSE OF THE DECEDENT AND ONE WHO
 7 IS NOT; AMENDING SECTION 72-16-303, MCA."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 10 Section 1. Section 72-16-303, MCA, is amended to read:
 11 "72-16-303. Joint estates -- transfer by right of
 12 survivorship taxable. (1) Whenever any property, however
 13 acquired, real or personal, tangible or intangible,
 14 including government bonds of the United States, is
 15 inscribed in co-ownership form, held by two or more persons
 16 in joint tenancy or as tenants by the entirety, or is
 17 deposited in any bank or other depository in the joint names
 18 of two or more persons and payable to the survivor or
 19 survivors of them upon the death of one of them, the right
 20 of the survivor or survivors to the immediate possession or
 21 ownership is a taxable transfer.

22 (2) The tax is upon the transfer of decedent's
 23 interest, one-half or other proper fraction, as evidenced by
 24 the written instrument creating the same, as though the
 25 property to which the transfer relates belonged to the joint

1 tenants, tenants by the entirety, joint depositors, holders
 2 in co-ownership form, or persons, as tenants in common and
 3 had been, for inheritance tax purposes, bequeathed or
 4 devised to the survivor or survivors by will, except such
 5 part thereof as may be shown to have originally belonged to
 6 the survivor and never to have belonged to the decedent when
 7 ~~the surviving joint tenant is a spouse of the decedent in~~
 8 ~~all other cases the full value of the property shall be~~
 9 ~~taxable except such portion thereof that originally~~
 10 ~~belonged to the survivor and as to which the decedent had~~
 11 ~~made no contribution if the decedent had made a~~
 12 ~~contribution to the ownership of such property, the amount~~
 13 ~~of such contribution shall be taxable.~~

14 (3) This section shall not be construed to repeal or
 15 modify the provisions of 72-16-301(3)."

-End-

HB 269

INTRODUCED BILL

STATE OF MONTANA

REQUEST NO. 81-79

FISCAL NOTE

Form BD-15

In compliance with a written request received January 22, 19 79, there is hereby submitted a Fiscal Note for House Bill 269 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

This bill is to remove the distinction for Inheritance Tax purposes between a surviving joint tenant who is the spouse of the decedent and one who is not.

ASSUMPTIONS

- 1) The Department of Revenue Projections of \$6.167 M in FY80 and \$6.333 M in FY81 for inheritance tax are correct.
- 2) There is an 18 month lag from effective date to impact. The time period from date of inheritance tax is 18 months.
- 3) The impact of the proposal if in effect for an entire year will be a loss in revenues of \$2 million.
- 4) Inheritance tax collections are homogenous; the collections are spread evenly throughout the year.

FISCAL IMPACT

	<u>FY80</u>	<u>FY81</u>
Inheritance tax		
under current law	No Impact	\$6.333 M
under proposed law	No Impact	5.333 M
Estimated Decrease	<u>No Impact</u>	<u>(1.000)M</u>

GENERAL FUND

	<u>FY80</u>	<u>FY81</u>
Inheritance tax		
under current law	No Impact	\$6.333 M
under proposed law	No Impact	5.333 M
Estimated Decrease	<u>No Impact</u>	<u>(1.000)M</u>

EFFECT ON LOCAL GOVERNMENTS

No Impact

LONG-RANGE EFFECTS

When this proposal is in effect for an entire year the impact will be a loss in revenue of \$2 million each year it is in effect.

Richard L. Drayton

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: 1/26/79

STATE OF MONTANA

REQUEST NO. 81-79

FISCAL NOTE

Form BD-15

In compliance with a written request received April 2, 19 79, there is hereby submitted a Fiscal Note for House Bill 269 (Third Reading version) 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

This bill is to remove the distinction for Inheritance Tax purposes between a surviving joint tenant who is the spouse of the decedent and one who is an issue.

ASSUMPTIONS

- 1) The Department of Revenue projections of \$6.167 M in FY 80 and \$6.333 M in FY 81 for Inheritance Tax are correct.
- 2) There is an 18 month lag from effective date to impact (18 months is the time period from date of death to due date of inheritance taxes).
- 3) The impact of the proposal, if in effect for an entire year, will be a loss in revenues of \$1.2 million.
- 4) Inheritance tax collections are homogeneous; the collections are spread evenly throughout the year.

FISCAL IMPACT

	<u>FY 80</u>	<u>FY 81</u>
Inheritance Tax		
under current law	No Impact	\$6.333 M
under proposed law	<u>No Impact</u>	<u>5.733 M</u>
Estimated Decrease	<u>No Impact</u>	<u>(\$.600 M)</u>

FUND INFORMATION

General Fund		
under current law	No Impact	\$6.333 M
under proposed law	<u>No Impact</u>	<u>5.733 M</u>
Estimated Decrease	<u>No Impact</u>	<u>(\$.600 M)</u>

EFFECT ON LOCAL GOVERNMENTS

No Impact

LONG-RANGE EFFECTS

When this proposal is in effect for an entire year the impact will be a loss in revenues of \$1.2 million each year it is in effect.

PREPARED BY DEPARTMENT OF REVENUE

Richard L. Stanger
 BUDGET DIRECTOR
 Office of Budget and Program Planning
 Date: 4/3/79

Approved by Committee
on Taxation

HOUSE BILL NO. 269

INTRODUCED BY YARDLEY, DUSSAULT, SCULLY, EUDAILY

A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE
DISTINCTION FOR INHERITANCE TAX PURPOSES BETWEEN A SURVIVING
JOINT TENANT WHO IS THE SPOUSE OF THE DECEDENT AND ONE WHO
IS-NOT IS AN ISSUE; AMENDING SECTION 72-16-303, MCA."

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

Section 1. Section 72-16-303, MCA, is amended to read:

"72-16-303. Joint estates -- transfer by right of
survivorship taxable. (1) Whenever any property, however
acquired, real or personal, tangible or intangible,
including government bonds of the United States, is
inscribed in co-ownership form, held by two or more persons
in joint tenancy or as tenants by the entirety, or is
deposited in any bank or other depository in the joint names
of two or more persons and payable to the survivor or
survivors of them upon the death of one of them, the right
of the survivor or survivors to the immediate possession or
ownership is a taxable transfer.

(2) The tax is upon the transfer of decedent's
interest, one-half or other proper fraction, as evidenced by
the written instrument creating the same, as though the
property to which the transfer relates belonged to the joint

tenants, tenants by the entirety, joint depositors, holders
in co-ownership form, or persons, as tenants in common and
had been, for inheritance tax purposes, bequeathed or
devised to the survivor or survivors by will, except such
part thereof as may be shown to have originally belonged to
the survivor and never to have belonged to the decedent when
~~the surviving joint tenant is a spouse of the decedent. In~~
~~all other cases the full value of the property shall be~~
~~taxable except such portion thereof that originally~~
~~belonged to the survivor and as to which the decedent had~~
~~made no contribution if the decedent had made a~~
~~contribution to the ownership of such property the amount~~
~~of such contribution shall be taxable~~ WHEN THE SURVIVING
JOINT TENANT IS A SPOUSE OR ISSUE OF THE DECEDENT. IN ALL
OTHER CASES, THE FULL VALUE OF THE PROPERTY SHALL BE
TAXABLE, EXCEPT THE PORTION THEREOF THAT ORIGINALLY BELONGED
TO THE SURVIVOR AND AS TO WHICH THE DECEDENT HAD MADE NO
CONTRIBUTION; IF THE DECEDENT HAD MADE A CONTRIBUTION TO THE
OWNERSHIP OF THE PROPERTY, THE AMOUNT OF THE CONTRIBUTION
SHALL BE TAXABLE.

(3) This section shall not be construed to repeal or
modify the provisions of 72-16-301(3)."

-End-

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A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE DISTINCTION FOR INHERITANCE TAX PURPOSES BETWEEN A SURVIVING JOINT TENANT WHO IS THE SPOUSE OF THE DECEDENT AND ONE WHO IS NOT IS AN ISSUE; AMENDING SECTION 72-16-303, MCA."

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Section 1. Section 72-16-303, MCA, is amended to read:

"72-16-303. Joint estates -- transfer by right of survivorship taxable. (1) Whenever any property, however acquired, real or personal, tangible or intangible, including government bonds of the United States, is inscribed in co-ownership form, held by two or more persons in joint tenancy or as tenants by the entirety, or is deposited in any bank or other depository in the joint names of two or more persons and payable to the survivor or survivors of them upon the death of one of them, the right of the survivor or survivors to the immediate possession or ownership is a taxable transfer.

(2) The tax is upon the transfer of decedent's interest, one-half or other proper fraction, as evidenced by the written instrument creating the same, as though the property to which the transfer relates belonged to the joint

tenants, tenants by the entirety, joint depositors, holders in co-ownership form, or persons, as tenants in common and had been, for inheritance tax purposes, bequeathed or devised to the survivor or survivors by will, except such part thereof as may be shown to have originally belonged to the survivor and never to have belonged to the decedent when the surviving joint tenant is a spouse of the decedent -- in all other cases the full value of the property shall be taxable except such portion thereof that originally belonged to the survivor and as to which the decedent had made no contribution -- if the decedent had made a contribution to the ownership of such property, the amount of such contribution shall be taxable WHEN THE SURVIVING JOINT TENANT IS A SPOUSE OR ISSUE OF THE DECEDENT. IN ALL OTHER CASES, THE FULL VALUE OF THE PROPERTY SHALL BE TAXABLE, EXCEPT THE PORTION THEREOF THAT ORIGINALLY BELONGED TO THE SURVIVOR AND AS TO WHICH THE DECEDENT HAD MADE NO CONTRIBUTION; IF THE DECEDENT HAD MADE A CONTRIBUTION TO THE OWNERSHIP OF THE PROPERTY, THE AMOUNT OF THE CONTRIBUTION SHALL BE TAXABLE.

(3) This section shall not be construed to repeal or modify the provisions of 72-16-301(3)."

-End-

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tenants, tenants by the entirety, joint depositors, holders in co-ownership form, or persons, as tenants in common and had been, for inheritance tax purposes, bequeathed or devised to the survivor or survivors by will, except such part thereof as may be shown to have originally belonged to the survivor and never to have belonged to the decedent when the surviving joint tenant is a spouse of the decedent. In all other cases the full value of the property shall be taxable except such portion thereof that originally belonged to the survivor and as to which the decedent had made no contribution. If the decedent had made a contribution to the ownership of such property, the amount of such contribution shall be taxable. WHEN THE SURVIVING JOINT TENANT IS A SPOUSE OR ISSUE OF THE DECEDENT, IN ALL OTHER CASES, THE FULL VALUE OF THE PROPERTY SHALL BE TAXABLE, EXCEPT THE PORTION THEREOF THAT ORIGINALLY BELONGED TO THE SURVIVOR AND AS TO WHICH THE DECEDENT HAD MADE NO CONTRIBUTION; IF THE DECEDENT HAD MADE A CONTRIBUTION TO THE OWNERSHIP OF THE PROPERTY, THE AMOUNT OF THE CONTRIBUTION SHALL BE TAXABLE.

(3) This section shall not be construed to repeal or modify the provisions of 72-16-301(3)."

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