

HOUSE BILL 291

IN THE HOUSE

January 22, 1979

Introduced and referred to  
Committee on Taxation.

House BILL NO. 291

INTRODUCED BY Johnson

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A SPECIAL METHOD OF TAXING AGRICULTURAL LAND OWNED BY NONRESIDENT ALIENS AND FOREIGN BUSINESSES; TO DISALLOW FARM-RELATED EXPENSES AS A DEDUCTION FROM CORPORATION LICENSE TAXES OR INDIVIDUAL INCOME TAXES FILED BY THESE PERSONS AND BUSINESSES; AMENDING SECTIONS 15-6-107, 15-30-101, AND 15-30-121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 15-6-107, MCA, is amended to read: "15-6-107. Class six property -- description -- taxable percentage. (1) Class six property includes agricultural land as defined in 15-7-202.

(2) Class six property is taxed at 30% of its assessed value, except as provided in subsection (3).

(3) Class six property owned by a nonresident alien or foreign business is taxed at 50% of its assessed value.

(4) (a) "Nonresident alien" means any person who is not a citizen of the United States and who is not a resident of the United States, or of some state, territory, trusteeship, or protectorate of the United States.

(b) "Foreign business" means any business entity

including but not limited to corporations, partnerships, and associations, in which a controlling interest is owned by aliens."

NEW SECTION. Section 2. Report on agricultural land ownership by nonresident aliens or foreign businesses. (1) Upon receiving any report of foreign land ownership in the state from the U.S. secretary of agriculture under the provisions of 7 U.S.C. 3505, the director of the Montana department of agriculture shall send notice of the ownership to:

(a) the assessor of the county in which the land is located;

(b) the corporation license tax division of the department of revenue; and

(c) the individual income tax division of the department of revenue.

(2) The county assessor shall enter the owner's name on the assessment book and apply the tax rate provided in 15-6-107(3) to land owned by a nonresident alien or a foreign business.

Section 3. Section 15-30-101, MCA, is amended to read:

"15-30-101. Definitions. For the purpose of this chapter, unless otherwise required by the context, the following definitions apply:

(1) "Department" means the department of revenue.

1       (2) "Dividend" means any distribution made by a  
 2 corporation out of its earnings or profits to its  
 3 shareholders or members, whether in cash or in other  
 4 property or in stock of the corporation, other than stock  
 5 dividends as herein defined. "Stock dividends" means new  
 6 stock issued, for surplus or profits capitalized, to  
 7 shareholders in proportion to their previous holdings.

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

12       (4) "Foreign business" means any business entity  
 13 including but not limited to corporations, partnerships, and  
 14 associations, in which a controlling interest is owned by  
 15 aliens.

16       (4)(5) "Foreign country" or "foreign government" means  
 17 any jurisdiction other than the one embraced within the  
 18 United States, its territories and possessions.

19       (5)(6) "Information agents" include all individuals,  
 20 corporations, associations, and partnerships in whatever  
 21 capacity acting, including lessees or mortgagors of real or  
 22 personal property, fiduciaries, employers, and all officers  
 23 and employees of the state or of any municipal corporation  
 24 or political subdivision of the state, having the control,  
 25 receipt, custody, disposal, or payment of interest, rent,

1       salaries, wages, premiums, annuities, compensations,  
 2 remunerations, emoluments, or other fixed or determinable  
 3 annual or periodical gains, profits, and income with respect  
 4 to which any person or fiduciary is taxable under this  
 5 chapter.

6       (6)(7) "Net income" means the adjusted gross income of  
 7 a taxpayer less the deductions allowed by this chapter.

8       (8) "Nonresident alien" means any person who is not a  
 9 citizen of the United States and who is not a resident of  
 10 the United States or of some state, territory, trusteeship,  
 11 or protectorate of the United States.

12       (7)(8) "Paid", for the purposes of the deductions and  
 13 credits under this chapter, 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 chapter.

18       (8)(9) "Received", for the purpose of computation of  
 19 taxable income under this chapter, means received or accrued  
 20 and the term "received or accrued" shall be construed  
 21 according to the method of accounting upon the basis of  
 22 which the taxable income is computed under this chapter.

23       (9)(10) "Resident" applies only to natural persons and  
 24 includes, for the purpose of determining liability to the  
 25 tax imposed by this chapter with reference to the income of

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

6 ~~12~~ "Taxable income" means the adjusted gross  
 7 income of a taxpayer less the deductions and exemptions  
 8 provided for in this chapter.

9 ~~13~~ "Taxable year" means the taxpayer's taxable  
 10 year for federal income tax purposes.

11 ~~14~~ "Taxpayer" includes any person or fiduciary,  
 12 resident or nonresident, subject to a tax imposed by this  
 13 chapter and does not include corporations."

14 Section 4. Section 15-30-121, MCA, is amended to read:  
 15 "15-30-121. Deductions allowed in computing net  
 16 income. In computing net income, there are allowed as  
 17 deductions:

18 (1) the items referred to in sections 161 and 211 of  
 19 the Internal Revenue Code of 1954, or as sections 161 and  
 20 211 shall be labeled or amended, subject to the following  
 21 exceptions which are not deductible:

22 (a) items provided for in 15-30-123;

23 (b) state income tax paid;

24 (c) expenses generated directly or indirectly as a  
 25 result of the growing or production of any raw agricultural

1 products claimed by any nonresident alien or foreign  
 2 business;  
 3 (2) federal income tax paid within the taxable year;  
 4 (3) child and dependent care expenses determined in  
 5 accordance with the provisions of section 214 of the  
 6 Internal Revenue Code of 1954 that were in effect for the  
 7 taxable year that began January 1, 1974;  
 8 (4) that portion of an energy-related investment  
 9 allowed as a deduction under 15-32-103."

10 NEW SECTION Section 5. Certain farm-related items  
 11 not deductible for nonresident aliens and foreign business.  
 12 (1) Deductions under 15-31-114 generated directly or  
 13 indirectly as a result of the growing or production of any  
 14 raw agricultural product may not be claimed by a foreign  
 15 business or a nonresident alien.

16 (2) (a) "Foreign business" means any business entity,  
 17 including but not limited to corporations, partnerships, and  
 18 associations, in which a controlling interest is owned by  
 19 aliens.

20 (b) "Nonresident aliens" means any person who is not a  
 21 citizen of the United States and who is not a resident of  
 22 the United States or of some state, territory, trusteeship,  
 23 or protectorate of the United States.

24 Section 6. Effective date. This act is effective on  
 25 passage and approval and applies to taxable years beginning

LC 0955/01

1 after December 31, 1978.

-End-

STATE OF MONTANA

REQUEST NO. 447-79

FISCAL NOTE

Form BD-15

In compliance with a written request received March 9, 1979, there is hereby submitted a Fiscal Note for House Bill 291 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 proposed bill provides a special method of taxing agricultural land owned by non-resident aliens and foreign businesses; to disallow farm-related expenses as a deduction from corporation license taxes or individual income taxes filed by these persons and businesses.

ASSUMPTIONS

There are no data available to estimate the fiscal impact of this legislation.

(Prepared by the Department of Revenue)

*Richard J. Thompson*

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 3/13/79