

CHAPTER NO. 476

HOUSE BILL NO. 363

INTRODUCED BY BERTELSEN

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE HOUSE

January 24, 1979	Introduced and referred to Committee on Taxation.
February 2, 1979	Committee recommend bill do pass. Report adopted.
February 3, 1979	Printed and placed on members' desks.
February 5, 1979	Second reading, do pass.
February 6, 1979	Considered correctly engrossed.
February 7, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 8, 1979	Introduced and referred to Committee on Taxation.
March 15, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 17, 1979	Second reading, concurred in.
March 20, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 21, 1979	Returned from second house. Concurred in as amended.
March 22, 1979	On motion consideration passed until the 71st Legislative Day.

March 28, 1979

Second reading, amendments
adopted.

March 29, 1979

Third reading, amendments
adopted. Sent to enrolling.

Reported correctly enrolled.

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4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 6 15-30-101, MCA, PROVIDING A DEFINITION OF GROSS INCOME FOR
 7 THE PURPOSES OF THE INDIVIDUAL INCOME TAX."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 15-30-101, MCA, is amended to read:
 11 "15-30-101. Definitions. For the purpose of this
 12 chapter, unless otherwise required by the context, the
 13 following definitions apply:

- 14 (1) "Department" means the department of revenue.
- 15 (2) "Dividend" means any distribution made by a
 16 corporation out of its earnings or profits to its
 17 shareholders or members, whether in cash or in other
 18 property or in stock of the corporation, other than stock
 19 dividends as herein defined. "Stock dividends" means new
 20 stock issued, for surplus or profits capitalized, to
 21 shareholders in proportion to their previous holdings.
- 22 (3) "Fiduciary" means a guardian, trustee, executor,
 23 administrator, receiver, conservator, or any person, whether
 24 individual or corporate, acting in any fiduciary capacity
 25 for any person, trust, or estate.

1 (4) "Foreign country" or "foreign government" means
 2 any jurisdiction other than the one embraced within the
 3 United States, its territories and possessions.

4 ~~(5) "Gross income" means the taxpayer's gross income~~
 5 ~~for federal income tax purposes as defined in section 61 of~~
 6 ~~the Internal Revenue Code of 1954 or as that section may be~~
 7 ~~labeled or amended.~~

8 ~~(5)(6) "Information agents" include all individuals,~~
 9 ~~corporations, associations, and partnerships, in whatever~~
 10 ~~capacity acting, including lessees or mortgagors of real or~~
 11 ~~personal property, fiduciaries, employers, and all officers~~
 12 ~~and employees of the state or of any municipal corporation~~
 13 ~~or political subdivision of the state, having the control,~~
 14 ~~receipt, custody, disposal, or payment of interest, rent,~~
 15 ~~salaries, wages, premiums, annuities, compensations,~~
 16 ~~remunerations, emoluments, or other fixed or determinable~~
 17 ~~annual or periodical gains, profits, and income with respect~~
 18 ~~to which any person or fiduciary is taxable under this~~
 19 ~~chapter.~~

20 ~~(6)(7) "Net income" means the adjusted gross income of~~
 21 ~~a taxpayer less the deductions allowed by this chapter.~~

22 ~~(7)(8) "Paid", for the purposes of the deductions and~~
 23 ~~credits under this chapter, means paid or accrued or paid or~~
 24 ~~incurred, and the terms "paid or incurred" and "paid or~~
 25 ~~accrued" shall be construed according to the method of~~

1 accounting upon the basis of which the taxable income is
2 computed under this chapter.

3 ~~(10)~~(9) "Received", for the purpose of computation of
4 taxable income under this chapter, means received or accrued
5 and the term "received or accrued" shall be construed
6 according to the method of accounting upon the basis of
7 which the taxable income is computed under this chapter.

8 ~~(11)~~(10) "Resident" applies only to natural persons and
9 includes, for the purpose of determining liability to the
10 tax imposed by this chapter with reference to the income of
11 any taxable year, any person domiciled in the state of
12 Montana and any other person who maintains a permanent place
13 of abode within the state even though temporarily absent
14 from the state and has not established a residence
15 elsewhere.

16 ~~(12)~~(11) "Taxable income" means the adjusted gross
17 income of a taxpayer less the deductions and exemptions
18 provided for in this chapter.

19 ~~(13)~~(12) "Taxable year" means the taxpayer's taxable
20 year for federal income tax purposes.

21 ~~(14)~~(13) "Taxpayer" includes any person or fiduciary,
22 resident or nonresident, subject to a tax imposed by this
23 chapter and does not include corporations."

-End-

STATE OF MONTANA

REQUEST NO. 149-79

FISCAL NOTE

Form BD-15

In compliance with a written request received January 26, 19 79, there is hereby submitted a Fiscal Note for House Bill 363 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 definition of gross income for the purpose of the individual income tax.

ASSUMPTIONS

This bill will clarify the present law. It will not affect collections.

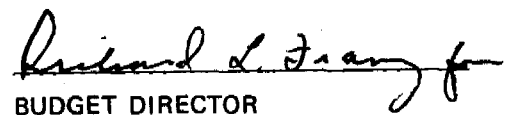
FISCAL IMPACT

No Effect

TECHNICAL NOTE

It is believed that the proposed law is needed to clarify the present law. 15-30-142, M.C.A., specifies filing requirements in terms of "gross income", and yet there is no place in Chapter 30 where gross income is defined, except implicitly by the reference to Federal statutes given in 15-30-111, M.C.A.

PREPARED BY DEPARTMENT OF REVENUE


BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1/31/79

Approved by Committee
on Taxation

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18 property or in stock of the corporation, other than stock
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20 stock issued, for surplus or profits capitalized, to
21 shareholders in proportion to their previous holdings.

22 (3) "Fiduciary" means a guardian, trustee, executor,
23 administrator, receiver, conservator, or any person, whether
24 individual or corporate, acting in any fiduciary capacity
25 for any person, trust, or estate.

1 (4) "Foreign country" or "foreign government" means
2 any jurisdiction other than the one embraced within the
3 United States, its territories and possessions.

4 ~~(5)~~ "Gross income" means the taxpayer's gross income
5 for federal income tax purposes as defined in section 61 of
6 the Internal Revenue Code of 1954 or as that section may be
7 labeled or amended.

8 ~~(5)(6)~~ "Information agents" include all individuals,
9 corporations, associations, and partnerships, in whatever
10 capacity acting, including lessees or mortgagors of real or
11 personal property, fiduciaries, employers, and all officers
12 and employees of the state or of any municipal corporation
13 or political subdivision of the state, having the control,
14 receipt, custody, disposal, or payment of interest, rent,
15 salaries, wages, premiums, annuities, compensations,
16 remunerations, emoluments, or other fixed or determinable
17 annual or periodical gains, profits, and income with respect
18 to which any person or fiduciary is taxable under this
19 chapter.

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21 a taxpayer less the deductions allowed by this chapter.

22 ~~(7)(8)~~ "Paid", for the purposes of the deductions and
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24 incurred, and the terms "paid or incurred" and "paid or
25 accrued" shall be construed according to the method of

1 accounting upon the basis of which the taxable income is
2 computed under this chapter.

3 ~~f0~~f91 "Received", for the purpose of computation of
4 taxable income under this chapter, means received or accrued
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7 which the taxable income is computed under this chapter.

8 ~~f9~~f10 "Resident" applies only to natural persons and
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10 tax imposed by this chapter with reference to the income of
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 9 corporations, associations, and partnerships, in whatever
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 11 personal property, fiduciaries, employers, and all officers
 12 and employees of the state or of any municipal corporation
 13 or political subdivision of the state, having the control,
 14 receipt, custody, disposal, or payment of interest, rent,
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(4) "Foreign country" or "foreign government" means any jurisdiction other than the one embraced within the United States, its territories and possessions.

~~(5) "Gross income" means the taxpayer's gross income for federal income tax purposes as defined in section 61 of the Internal Revenue Code of 1954 or as that section may be labeled or amended, EXCLUDING UNEMPLOYMENT COMPENSATION INCLUDED IN FEDERAL GROSS INCOME UNDER THE PROVISIONS OF SECTION 95 OF THE INTERNAL REVENUE CODE OF 1954 AS AMENDED.~~

~~(6)(1) "Information agents" include all individuals, corporations, associations, and partnerships, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the state or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income with respect to which any person or fiduciary is taxable under this chapter.~~

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16 from the state and has not established a residence
17 elsewhere.

18 ~~§1111~~ "Taxable income" means the adjusted gross
19 income of a taxpayer less the deductions and exemptions
20 provided for in this chapter.

21 ~~§1121~~ "Taxable year" means the taxpayer's taxable
22 year for federal income tax purposes.

23 ~~§1131~~ "Taxpayer" includes any person or fiduciary,
24 resident or nonresident, subject to a tax imposed by this
25 chapter and does not include corporations."

-End-

March 15, 1979

SENATE STANDING COMMITTEE REPORT
(Taxation)

That House Bill No. 363 be amended as follows:

1. Page 2, line 7.

Following: "amended"

Insert: ", excluding unemployment compensation included in
federal gross income under the provisions of section 85 of
the Internal Revenue Code of 1954 as amended"