

# CHAPTER NO. 416.

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.

House BILL NO. 363

1 INTRODUCED BY Bastista

2 BY REQUEST OF THE DEPARTMENT OF REVENUE

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION  
5 15-30-101, MCA, PROVIDING A DEFINITION OF GROSS INCOME FOR  
6 THE PURPOSES OF THE INDIVIDUAL INCOME TAX."

7  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 15-30-101, MCA, is amended to read:  
10  
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 (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 (7) "Net income" means the adjusted gross income of  
21 a taxpayer less the deductions allowed by this chapter.

22 (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 ~~107191~~ "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 ~~1071101~~ "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 ~~1071111~~ "Taxable income" means the adjusted gross  
17 income of a taxpayer less the deductions and exemptions  
18 provided for in this chapter.

19 ~~1071121~~ "Taxable year" means the taxpayer's taxable  
20 year for federal income tax purposes.

21 ~~1071131~~ "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

*Richard A. Tracy Jr.*  
BUDGET DIRECTOR  
Office of Budget and Program Planning  
Date: 1/31/79

Approved by Committee  
on Taxation

House BILL NO. 363

1 INTRODUCED BY Bartleman

2 BY REQUEST OF THE DEPARTMENT OF REVENUE

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

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

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10 chapter, unless otherwise required by the context, the  
11 following definitions apply:

12 (1) "Department" means the department of revenue.  
13 (2) "Dividend" means any distribution made by a  
14 corporation out of its earnings or profits to its  
15 shareholders or members, whether in cash or in other  
16 property or in stock of the corporation, other than stock  
17 dividends as herein defined. "Stock dividends" means new  
18 stock issued, for surplus or profits capitalized, to  
19 shareholders in proportion to their previous holdings.

20 (3) "Fiduciary" means a guardian, trustee, executor,  
21 administrator, receiver, conservator, or any person, whether  
22 individual or corporate, acting in any fiduciary capacity  
23 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.

4 151 "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 ~~151~~ "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 ~~151~~ "Net income" means the adjusted gross income of  
21 a taxpayer less the deductions allowed by this chapter.

22 ~~1718~~ "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 ~~107(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 ~~107(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 ~~107(11)~~ "Taxable income" means the adjusted gross  
17 income of a taxpayer less the deductions and exemptions  
18 provided for in this chapter.

19 ~~107(12)~~ "Taxable year" means the taxpayer's taxable  
20 year for federal income tax purposes.

21 ~~107(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-

House BILL NO. 363

INTRODUCED BY *Bastetane*

BY REQUEST OF THE DEPARTMENT OF REVENUE

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION  
6 15-30-101, MCA, PROVIDING A DEFINITION OF GROSS INCOME FOR  
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13 following definitions apply:

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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.

55161 "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 controls,  
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.

20 ~~66171~~ "Net income" means the adjusted gross income of  
21 a taxpayer less the deductions allowed by this chapter.

22        ~~77161~~ "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 ~~18191~~ "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 ~~19101~~ "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 ~~18111~~ "Taxable income" means the adjusted gross  
17 income of a taxpayer less the deductions and exemptions  
18 provided for in this chapter.

19 ~~181121~~ "Taxable year" means the taxpayer's taxable  
20 year for federal income tax purposes.

21 ~~181131~~ "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-

HOUSE BILL NO. 363  
INTRODUCED BY BERTELSEN  
BY REQUEST OF THE DEPARTMENT OF REVENUE

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION  
6 12-30-101, MCA, PROVIDING A DEFINITION OF GROSS INCOME; AND  
7 THE PURPOSES OF THE INDIVIDUAL INCOME TAX."

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  
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13 following definitions apply:

(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  
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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           121. "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 in section may be  
7        labeled or amended, EXCLUDING UNEMPLOYMENT COMPENSATION  
8        INCLUDED IN FEDERAL GROSS INCOME UNDER THE PROVISIONS OF  
9        SECTION 95 OF THE INTERNAL REVENUE CODE OF 1954 AS AMENDED.

10        557161 "Information agents" include all individuals,  
11        corporations, associations, and partnerships, in whatever  
12        capacity acting, including lessees or mortgagors of real or  
13        personal property, fiduciaries, employers, and all officers  
14        and employees of the state or of any municipal corporation  
15        or political subdivision of the state, having the control,  
16        receipt, custody, disposal, or payment of interest, rent,  
17        salaries, wages, premiums, annuities, compensations,  
18        remunerations, emoluments, or other fixed or determinable  
19        annual or periodical gains, profits, and income with respect  
20        to which any person or fiduciary is taxable under this  
21        chapter.

22        ~~66111~~ "Net income" means the adjusted gross income of  
23        a taxpayer less the deductions allowed by this chapter.

1 incurred, and the terms "paid or incurred" and "paid or  
2 accrued" shall be construed according to the method of  
3 accounting upon the basis of which the taxable income is  
4 computed under this chapter.

5 ~~101~~ "Received", for the purpose of computation of  
6 taxable income under this chapter, means received or accrued  
7 and the term "received or accrued" shall be construed  
8 according to the method of accounting upon the basis of  
9 which the taxable income is computed under this chapter.

10 ~~1101~~ "Resident" applies only to natural persons and  
11 includes, for the purpose of determining liability to the  
12 tax imposed by this chapter with reference to the income of  
13 any taxable year, any person domiciled in the state of  
14 Montana and any other person who maintains a permanent place  
15 of abode within the state even though temporarily absent  
16 from the state and has not established a residence  
17 elsewhere.

18 ~~101111~~ "Taxable income" means the adjusted gross  
19 income of a taxpayer less the deductions and exemptions  
20 provided for in this chapter.

21 ~~11121~~ "Taxable year" means the taxpayer's taxable  
22 year for federal income tax purposes.

23 ~~12131~~ "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"