

CHAPTER NO. 573

SENATE BILL NO. 265
INTRODUCED BY STIMATZ

IN THE SENATE

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| February 10, 1979 | Introduced and referred to Committee on Taxation. |
| February 22, 1979 | Committee recommend bill do pass. Report adopted. Printed and placed on members' desks. |
| February 23, 1979 | Fiscal note requested. |
| February 27, 1979 | Fiscal note returned. Second reading, do pass. |
| February 28, 1979 | Considered correctly engrossed. |
| March 1, 1979 | Third reading, passed. Transmitted to second house. |

IN THE HOUSE

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| March 2, 1979 | Introduced and referred to Committee on Taxation. |
| March 31, 1979 | Committee recommend bill be concurred in. Report adopted. |
| April 2, 1979 | Second reading, concurred in. |
| April 4, 1979 | Third reading, concurred in. |

IN THE SENATE

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| April 5, 1979 | Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled. |
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SENATE BILL NO. 265
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A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 72-16-308, MCA, TO CLARIFY THE EXTENT TO WHICH A DECEDENT'S JOINT DEBTS MAY BE DEDUCTED IN DETERMINING CLEAR MARKET VALUE OF PROPERTY PASSING AT DEATH."

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

Section 1. Section 72-16-308, MCA, is amended to read:

"72-16-308. Tax to be on clear market value -- deductions allowed in determining value. (1) The tax so imposed shall be upon the clear market value of such property passing by any such transfer to each person, institution, association, corporation, or body politic at the rates hereinafter prescribed and only upon the excess of the exemption hereinafter granted to such person, institution, association, corporation, or body politic.

(2) In determining the clear market value of the property so passing by any such transfer, the following deductions and no other shall be allowed:

(a) debts of the decedent owing at the date of death, provided that any debt secured by decedent's joint interest in property and for which the decedent was jointly and severally liable, is deductible only to the extent of 1/2 or

other proper fraction representing decedent's share of the property;

(b) expenses of funeral and last illness;

(c) all Montana state, county, municipal, and federal taxes, including all penalties and interest thereon, owing by decedent at the date of death;

(d) the ordinary expenses of administration, including:

(i) the commissions and fees of executors and administrators and their attorneys actually allowed and paid;

(ii) attorneys' fees, filing fees, necessary expenses, and closing costs incident to proceedings to terminate joint tenancies, termination of life estates and transfers in contemplation of death, and any and all other proceedings instituted for the determination of inheritance tax; and

(e) federal estate taxes due or paid."

Section 2. Effective date. This act is effective on passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 417-79

FISCAL NOTE

Form BD-15

In compliance with a written request received February 23, 19 79, there is hereby submitted a Fiscal Note for Senate Bill 265 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 clarifies the extent to which a decedent's joint debts may be deducted in determining clear market value of property passing at death.

FISCAL IMPACT

This proposal would have no impact in FY80 because of the 18 month lag between date of death and due date for inheritance tax payments. This bill would increase collections from inheritance tax by \$.1 million to \$.3 million in FY81.

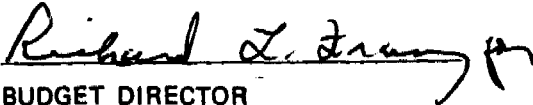
LONG-RANGE EFFECTS

In the long run revenues to the state could increase by more than \$.5 million each year this act is in effect.

TECHNICAL NOTE

This proposal will not actually increase collections to the state coffers. This proposal codifies what had been the administrative practice of the Department of Revenue. In September 1977 the Supreme Court ruled the entire debt must be subtracted from the value of the estate. The decision forced the Department of Revenue to change its administrative practice and caused a loss in revenues to the state of \$.5 million each fiscal year. The bill would nullify the Supreme Court decision, make Montana's inheritance tax provisions for debt reductions consistent with Federal inheritance tax laws and allow the state to recoup the court-mandated loss from estates with dates of death after the effective date of this proposal.

PREPARED BY DEPARTMENT OF REVENUE


BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/27/79

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16 the rates hereinafter prescribed and only upon the excess of
17 the exemption hereinafter granted to such person,
18 institution, association, corporation, or body politic.

19 (2) In determining the clear market value of the
20 property so passing by any such transfer, the following
21 deductions and no other shall be allowed:

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23 ~~provided that any debt secured by decedent's joint interest~~
24 ~~in property and for which the decedent was jointly and~~
25 ~~severally liable, is deductible only to the extent of 1/2 or~~

1 ~~other proper fraction representing decedent's share of the~~
2 ~~property;~~

3 (b) expenses of funeral and last illness;

4 (c) all Montana state, county, municipal, and federal
5 taxes, including all penalties and interest thereon, owing
6 by decedent at the date of death;

7 (d) the ordinary expenses of administration,
8 including:

9 (i) the commissions and fees of executors and
10 administrators and their attorneys actually allowed and
11 paid;

12 (ii) attorneys' fees, filing fees, necessary expenses,
13 and closing costs incident to proceedings to terminate joint
14 tenancies, termination of life estates and transfers in
15 contemplation of death, and any and all other proceedings
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17 (e) federal estate taxes due or paid."

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19 passage and approval.

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