

HOUSE BILL NO. 13

INTRODUCED BY FABREGA

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

IN THE HOUSE

January 6, 1981	Introduced and referred to Committee on Taxation.
January 15, 1981	Committee recommend bill do pass. Report adopted.
January 16, 1981	Bill printed and placed on members' desks.
January 17, 1981	Second reading, do pass.
January 19, 1981	Considered correctly engrossed. Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 20, 1981	Introduced and referred to Committee on Taxation.
March 28, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 30, 1981	Motion pass consideration.
March 31, 1981	Motion pass consideration.
April 1, 1981	Second reading, concurred in.
April 3, 1981	Third reading, concurred in as amended. Ayes, 45; Noes, 3.

IN THE HOUSE

April 4, 1981

Returned from Senate with amendments.

April 9, 1981

Second reading, amendments concurred in.

On motion rules suspended and bill placed on third reading this day.

Third reading, amendments concurred in. Ayes, 93; Noes, 0. Sent to enrolling.

Reported correctly enrolled.

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5    A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE DEPARTMENT  
6    OF REVENUE TO WAIVE INTEREST UPON DELINQUENT TAXES AND  
7    PENALTIES IN CERTAIN CASES; AMENDING SECTION 15-1-206, MCA."  
8

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

10        Section 1. Section 15-1-206, MCA, is amended to read:

11        "15-1-206. Waiver and abatement of penalties --  
12        interest. (1) The department may, in its discretion, waive  
13        the assessment of penalty for the late filing of any tax  
14        statement or return required to be filed with the department  
15        when the filing is done within 5 days of the date specified  
16        for filing the return or statement and for the late payment  
17        of any tax collected by the department when the payment is  
18        made within 5 days of the date specified for payment of the  
19        tax.

20        (2) Whenever the department waives or abates a penalty  
21        provided for in this title, it also may, in its discretion,  
22        wave or abate interest not to exceed \$100 due upon the  
23        penalty or tax."

-End-

INTRODUCED BILL

*H. B. 13*

STATE OF MONTANA

REQUEST NO. 432-81

FISCAL NOTE

Form BD-15

In compliance with a written request received March 16, 19 81, there is hereby submitted a Fiscal Note for HOUSE BILL 13 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

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.

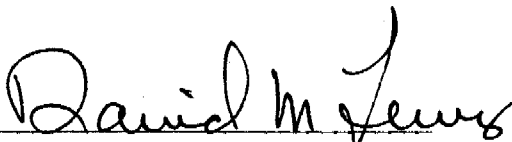
DESCRIPTION

An act to allow the Department of Revenue to waive interest upon delinquent taxes and penalties in certain cases.

FISCAL IMPACT

The fiscal impact of the proposed legislation cannot be estimated at this time because the amount of interest subject to waiver cannot be anticipated. As a reference, individual income tax interest assessments amounted to \$365,000 for the latest year. The proposed legislation would apply to all taxpayers, so the total amount of interest assessments would be considerably larger. It should be noted that the bill proposes to give the Department of Revenue discretion as to when the interest assessment can be waived, but does not provide for any guidelines.

PREPARED BY THE DEPARTMENT OF REVENUE



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 3-18-81

Approved by Committee  
on Taxation

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-End-

SECOND READING

HB 13

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-End-

THIRD READING  
 HB 13

## HOUSE BILL NO. 13

INTRODUCED BY FABREGA

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE DEPARTMENT OF REVENUE TO WAIVE INTEREST UPON DELINQUENT TAXES AND PENALTIES IN CERTAIN CASES AND TO EXTEND THE PERIOD BEFORE A PENALTY MAY BE ASSESSED; AMENDING SECTION ~~SECTION~~ SECTIONS 15-1-206, 15-30-142, AND 15-30-323, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 15-1-206, MCA, is amended to read:

"15-1-206. Waiver and abatement of penalties -- interest. (1) The department may, in its discretion, waive the assessment of penalty for the late filing of any tax statement or return required to be filed with the department when the filing is done within 5 days of the date specified for filing the return or statement and for the late payment of any tax collected by the department when the payment is made within 5 days of the date specified for payment of the tax.

(2) Whenever the department waives or abates a penalty provided for in this title, it also may, in its discretion, waive or abate interest not to exceed \$100 due upon the

~~penalty or tax.~~

(3) WHENEVER THE DEPARTMENT IS NOTIFIED OF A CHANGE IN FEDERAL TAXABLE INCOME AS THE RESULT OF A FEDERAL ADJUSTMENT OR UPON FILING AN AMENDED FEDERAL RETURN, AS PROVIDED FOR IN 15-30-304, THE DEPARTMENT SHALL ABATE THE INTEREST ON THE ADDITIONAL TAX LIABILITY FROM THE DATE THE DEPARTMENT IS NOTIFIED UNTIL THE DEPARTMENT SENDS THE STATEMENT OF INCREASED TAX LIABILITY TO THE TAXPAYER.

(4) THE DEPARTMENT MAY WAIVE OR ABATE INTEREST ACCRUED PRIOR TO JULY 1, 1981, ON ADDITIONAL INDIVIDUAL INCOME TAX LIABILITY FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 1978, AND ON OR BEFORE DECEMBER 31, 1979, DUE TO THE REFUND OF ALASKA PERSONAL INCOME TAX DURING THE PERIOD JANUARY 1, 1980, THROUGH DECEMBER 31, 1980."

SECTION 2. SECTION 15-30-142, MCA, IS AMENDED TO READ:

"15-30-142. Returns and payment of tax -- penalty and interest -- refunds -- credits. (1) Every single individual and every married individual not filing a joint return with his or her spouse and having a gross income for the taxable year of more than \$940 and married individuals not filing separate returns and having a combined gross income for the taxable year of more than \$1,880 shall be liable for a return to be filed on such forms and according to such rules as the department may prescribe. The gross income amounts referred to in the preceding sentence shall be increased by

1 \$800 for each additional personal exemption allowance the  
 2 taxpayer is entitled to claim for himself and his spouse  
 3 under 15-30-112(3) and (4). A nonresident shall be required  
 4 to file a return if his gross income for the taxable year  
 5 derived from sources within Montana exceeds the amount of  
 6 the exemption deduction he is entitled to claim for himself  
 7 and his spouse under the provisions of 15-30-112(2), (3),  
 8 and (4), as prorated according to 15-30-112(6).

9 (2) In accordance with instructions set forth by the  
 10 department, every taxpayer who is married and living with  
 11 husband or wife and is required to file a return may, at his  
 12 or her option, file a joint return with husband or wife even  
 13 though one of the spouses has neither gross income nor  
 14 deductions. If a joint return is made, the tax shall be  
 15 computed on the aggregate taxable income and the liability  
 16 with respect to the tax shall be joint and several. If a  
 17 joint return has been filed for a taxable year, the spouses  
 18 may not file separate returns after the time for filing the  
 19 return of either has expired unless the department so  
 20 consents.

21 (3) If any such taxpayer is unable to make his own  
 22 return, the return shall be made by a duly authorized agent  
 23 or by a guardian or other person charged with the care of  
 24 the person or property of such taxpayer.

25 (4) All taxpayers, including but not limited to those

1 subject to the provisions of 15-30-202 and 15-30-241, shall  
 2 compute the amount of income tax payable and shall, at the  
 3 time of filing the return required by this chapter, pay to  
 4 the department any balance of income tax remaining unpaid  
 5 after crediting the amount withheld as provided by 15-30-202  
 6 and/or any payment made by reason of an estimated tax return  
 7 provided for in 15-30-241; provided, however, the tax so  
 8 computed is greater by \$1 than the amount withheld and/or  
 9 paid by estimated return as provided in this chapter. If the  
 10 amount of tax withheld and/or payment of estimated tax  
 11 exceeds by more than \$1 the amount of income tax as  
 12 computed, the taxpayer shall be entitled to a refund of the  
 13 excess.

14 (5) As soon as practicable after the return is filed,  
 15 the department shall examine and verify the tax.

16 (6) If the amount of tax as verified is greater than  
 17 the amount theretofore paid, the excess shall be paid by the  
 18 taxpayer to the department within 30 60 days after notice of  
 19 the amount of the tax as computed, with interest added at  
 20 the rate of 9% per annum or fraction thereof on the  
 21 additional tax. In such case there shall be no penalty  
 22 because of such understatement, provided the deficiency is  
 23 paid within 30 60 days after the first notice of the amount  
 24 is mailed to the taxpayer."

25 SECTION 3. SECTION 15-30-323, MCA, IS AMENDED TO READ:



1       "15-30-323. Penalty for deficiency. (1) If the payment  
2 required by 15-30-142(6) is not made within ~~30~~ 60 days or if  
3 the understatement is due to negligence on the part of the  
4 taxpayer but without fraud, there shall be added to the  
5 amount of the deficiency 5% thereof; provided, however, that  
6 no deficiency penalty shall be less than \$2. Interest will  
7 be computed at the rate of 9% per annum or fraction thereof  
8 on the additional assessment. Except as otherwise expressly  
9 provided in this subsection, the interest shall in all cases  
10 be computed from the date the return and tax were originally  
11 due as distinguished from the due date as it may have been  
12 extended to the date of payment.

13       (2) If the time for filing a return is extended, the  
14 taxpayer shall pay in addition interest thereon at the rate  
15 of 9% per annum from the time when the return was originally  
16 required to be filed to the time of payment."

17       SECTION 4. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON  
18 PASSAGE AND APPROVAL.

-End-

March 28, 1981

SENATE STANDING COMMITTEE REPORT  
(Taxation)

That House Bill No. 13 be amended as follows

1. Title, line 7.

Following: "CASES"

Insert: "AND TO EXTEND THE PERIOD BEFORE A PENALTY MAY BE ASSESSED"

Following: "AMENDING"

Strike: "SECTION"

Insert: "SECTIONS"

Following: "15-1-206,"

Insert: "15-30-142, AND 15-30-323,"

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 1, line 23.

Following: line 22

Strike: "penalty or"

3. Page 1.

Following: line 23

Insert: "(3) Whenever the department is notified of a change in federal taxable income as the result of a federal adjustment or upon filing an amended federal return, as provided for in 15-30-304, the department shall abate the interest on the additional tax liability from the date the department is notified until the department sends the statement of increased tax liability to the taxpayer.

(4) The department may waive or abate interest accrued prior to July 1, 1981, on additional individual income tax liability for tax years beginning after December 31, 1978, and on or before December 31, 1979, due to the refund of Alaska personal income tax during the period January 1, 1980 through December 31, 1980.

Section 2. Section 15-30-142, MCA, is amended to read: "15-30-142. Returns and payment of tax-penalty and interest-refunds-credits.

(1) Every single individual and every married individual not filing a joint return with his or her spouse and having a gross income for the taxable year of more than \$940 and married individuals not filing separate returns and having a combined gross income for the taxable year of more than \$1,880 shall be liable for a return to be filed on such forms and according to such rules as the department may prescribe. The gross income amounts referred to in the preceding sentence shall be increased by \$800 for each additional personal exemption allowance the taxpayer is entitled to claim for himself and his spouse under 15-30-112(3) and (4). A nonresident shall be required to file a return if his gross income for the taxable year derived from sources within Montana exceeds the amount of the exemption deduction he is entitled to claim for himself and his spouse under the provisions of 15-30-112(2), (3), and (4), as prorated according to 15-30-112(6).

(2) In accordance with instructions set forth by the department, every taxpayer who is married and living with husband or wife and is required to file a return may, at his or her option, file a joint return with husband or wife even though one of the spouses has

neither gross income nor deductions. If a joint return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several. If a joint return has been filed for a taxable year, the spouses may not file separate returns after the time for filing the return of either has expired unless the department so consents.

(3) If any such taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by a guardian or other person charged with the care of the person or property of such taxpayer.

(4) All taxpayers, including but not limited to those subject to the provisions of 15-30-202 and 15-30-241, shall compute the amount of income tax payable and shall, at the time of filing the return required by this chapter, pay to the department any balance of income tax remaining unpaid after crediting the amount withheld as provided by 15-30-202 and/or any payment made by reason of an estimated tax return provided for in 15-30-241; provided, however, the tax so computed is greater by \$1 than the amount withheld and/or paid by estimated return as provided in this chapter.

If the amount of tax withheld and/or payment of estimated tax exceeds by more than \$1 the amount of income tax as computed, the taxpayer shall be entitled to a refund of the excess.

(5) As soon as practicable after the return is filed, the department shall examine and verify the tax.

(6) If the amount of tax as verified is greater than the amount theretofore paid, the excess shall be paid by the taxpayer to the department within ~~30~~ 60 days after notice of the amount of the tax as computed, with interest added at the rate of 9% per annum or fraction thereof on the additional tax. In such case there shall be no penalty because of such understatement, provided the deficiency is paid within ~~30~~ 60 days after the first notice of the amount is mailed to the taxpayer."

Section 3. Section 15-30-323, MCA, is amended to read: "15-30-323. Penalty for deficiency. (1) If the payment required by 15-30-142(6) is not made within ~~30~~ 60 days or if the understatement is due to negligence on the part of the taxpayer but without fraud, there shall be added to the amount of the deficiency 5% thereof; provided, however, that no deficiency penalty shall be less than \$2. Interest will be computed at the rate of 9% per annum or fraction thereof on the additional assessment. Except as otherwise expressly provided in this subsection, the interest shall in all cases be computed from the date the return and tax were originally due as distinguished from the due date as it may have been extended to the date of payment.

(2) If the time for filing a return is extended, the taxpayer shall pay in addition interest thereon at the rate of 9% per annum from the time when the return was originally required to be filed to the time of payment."

Section 4. Effective date. This is effective on passage and approval."