

House Bill 42

In The House

January 6, 1981	Introduced and referred to Committee on Taxation.
January 7, 1981	Fiscal note requested.
January 14, 1981	Fiscal note returned.
March 28, 1981	Committee recommend bill do pass as amended. Bill printed and placed on members' desks. Motion pass consideration until the 71st Legislative day.
March 30, 1981	On motion rules suspended and bill allowed to be transmitted by the 75th Legislative day. Motion adopted.
April 1, 1981	Second reading do pass.
April 2, 1981	Correctly engrossed.
April 3, 1981	Third reading passed.

In The Senate

April 3, 1981	Introduced and referred to Committee on Taxation.
April 11, 1981	Committee recommend bill concurred as amended.
April 14, 1981	Second reading pass consideration.
April 15, 1981	Second reading pass consideration.
April 16, 1981	Second reading indefinitely postponed as amended.

In The House

April 17, 1981	Returned from Senate indefinitely postponed.
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1 HOUSE BILL NO. 42

2 INTRODUCED BY NORDTVEDT

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR

5 POSTPONEMENT OF CAPITAL GAINS TAX BY REINVESTING GAIN WITHIN

6 60 DAYS; AMENDING SECTION 15-30-111, MCA."

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

9 Section 1. Section 15-30-111, MCA, is amended to read:

10 "15-30-111. Adjusted gross income. (1) Adjusted gross

11 income shall be the taxpayer's federal income tax adjusted

12 gross income as defined in section 62 of the Internal

13 Revenue Code of 1954 or as that section may be labeled or

14 amended and in addition shall include the following:

15 (a) interest received on obligations of another state

16 or territory or county, municipality, district, or other

17 political subdivision thereof;

18 (b) refunds received of federal income tax, to the

19 extent the deduction of such tax resulted in a reduction of

20 Montana income tax liability.

21 (2) Adjusted gross income does not include the

22 following which are exempt from taxation under this chapter:

23 (a) interest income from obligations of the United

24 States government, the state of Montana, county,

25 municipality, district, or other political subdivision

1 thereof;

2 (b) all benefits received under the Federal Employees'

3 Retirement Act not in excess of \$3,600;

4 (c) all benefits paid under the teachers' retirement

5 law which are specified as exempt from taxation by 19-4-706;

6 (d) all benefits paid under The Public Employees'

7 Retirement System Act which are specified as exempt from

8 taxation by 19-3-105;

9 (e) all benefits paid under the highway patrol

10 retirement law which are specified as exempt from taxation

11 by 19-6-705;

12 (f) all Montana income tax refunds or credits thereof;

13 (g) all benefits paid under 19-11-602, 19-11-604, and

14 19-11-605 to retired and disabled firefighters, their

15 surviving spouses and orphans;

16 (h) all benefits paid by first- or second-class cities

17 for the policemen's retirement system provided for by Title

18 19, chapter 9.

19 (3) In the case of a shareholder of a corporation with

20 respect to which the election provided for under subchapter

21 5. of the Internal Revenue Code of 1954, as amended, is in

22 effect but with respect to which the election provided for

23 under 15-31-202, as amended, is not in effect, adjusted

24 gross income does not include any part of the corporation's

25 undistributed taxable income, net operating loss, capital

1 gains or other gains, profits, or losses required to be
 2 included in the shareholder's federal income tax adjusted
 3 gross income by reason of the said election under subchapter
 4 S. However, the shareholder's adjusted gross income shall
 5 include actual distributions from the corporation to the
 6 extent they would be treated as taxable dividends if the
 7 subchapter S. election were not in effect.

8 (4) No gain is recognized by a taxpayer for the
 9 purposes of adjusted gross income under this section on the
 10 sale or exchange of a capital asset, as defined in section
 11 1221 of the Internal Revenue Code, if the taxpayer reinvests
 12 the money made from the gain within 60 days of the sale or
 13 exchange and if the following conditions are met:

14 (a) The reinvestment made for the purposes of this
 15 subsection (4) is not made in any kind of real property.

16 (b) The reinvestment is made in a trade or business or
 17 corporation that conducts a substantial amount of business
 18 activity in the state of Montana. A qualifying business or
 19 corporation under this subsection must produce 50% of its
 20 taxable earnings in Montana or it must issue 50% of its
 21 payroll to employees whose principal residence is in
 22 Montana.

23 (c) The taxpayer reports the amount of the gain on his
 24 return in the taxable year of the sale or exchange on such
 25 forms and according to such rules as the department of

1 revenue may prescribe.

2 (5) The basis at the time of a sale or exchange of a
 3 capital asset, under subsection (4), is carried over to the
 4 newly purchased asset."

-End-

STATE OF MONTANA

REQUEST NO. _____

FISCAL NOTE

Form BD-15

In compliance with a written request received January 7, 19 81, there is hereby submitted a Fiscal Note for House Bill 42 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 provide for postponement of capital gains tax by reinvesting gain within 60 days.

ASSUMPTIONS

There are no data readily available which give the distribution of capital gains income among Montana taxpayers. Federal statistics for 1977 report a total of \$117,040,000 in net capital gains (gains less losses) on returns (Federal) from Montana. Assuming that:

- (1) the level of net capital gains remains the same during 1981 and 1982,
- (2) the average effective tax rate on Montana adjusted gross income remains at 5.68% (1978 Montana actual) and,
- (3) at most 20% of the net capital gains income is reinvested according to the criteria of this proposal, a calculation can be made to give an indication of the amount of revenue involved. The estimate is given only for the purpose of illustrating the magnitude of the potential impact.

Montana income tax attributable to capital gains income without reinvestment provision

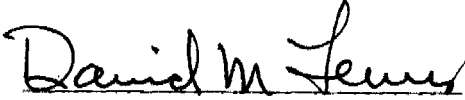
$$\$117,040,000 \times .0568 = \$6.65M$$

Montana income tax attributable to capital gains income assuming 20% reinvestment according to criteria of this proposal.

$$\$117,040,000 \times .8 \times .0568 = \$5.32 M$$

Thus, under the assumptions made for the purposes of this illustration, the proposal would produce a decrease in income tax collections of \$1.33 M in each year of the biennium.

If capital gains income were reinvested according to the criteria of this proposal, the maximum impact would be a decrease in income tax collections of \$6.65 M in each year of the biennium.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-13-81

1 STATEMENT OF INTENT

2 HOUSE BILL 42

3 House Taxation Committee

4

5 Section 1(c) of House Bill 42 requires the Department
6 of Revenue to adopt rules to administer the provisions of
7 House Bill 42. It is the intent of the Legislature that the
8 Department of Revenue will develop reporting forms for
9 taxpayers to identify capital assets sold and purchased. The
10 form will include the selling or purchase prices of the
11 appropriate capital asset.

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 13 days 1 YEAR of the sale or exchange and if the following
 14 conditions are met:

15 (a) The reinvestment made for the purposes of this
 16 subsection (4) is not made in ~~any-kind-of-real-property~~ LAND
 17 OF TOTAL AREA GREATER THAN 20 ACRES.

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 19 corporation that conducts a substantial amount of business
 20 activity in the state of Montana. A qualifying business or
 21 corporation under this subsection must produce 50% of its
 22 taxable earnings in Montana or it must issue 50% of its
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April 11, 1981

SENATE STANDING COMMITTEE REPORT
(Taxation)

That House Bill No. 42 be amended as follows:

1. Page 3, line 15.

Following: line 14

Strike: subsection (a) in its entirety.

Renumber subsequent subsections.

April 16, 1981

SENATE COMMITTEE OF THE WHOLE

Proposed amendments to House Bill 42 , third reading copy, as follows:

1. Page 3, line 9.

Following: "section"

Strike: "on"

Insert: "which is derived from gain on the sale or exchange of property described in sections 1231, 1245, and 1250, of the Internal Revenue Code to the extent that this gain is treated as capital gain under these sections or which is from"