## House Bill 433

## In The House

January 23, 1981

February 6, 1981

February 9, 1981

February 10, 1981
February ll, 1981
February 12, 1981

Introduced and referred to Committee on Taxation.

Committee recommend bill do pass as amended.

Bill printed and placed on members' desks.
second reading do pass.
Correctly engrossed.
Third reading passed.
In The Senate

February 13, 1981

March 18, 1981

Introduced and referred to Committee on Taxation.

Committee recommend bill not concurred.
In The House

March 19, 1981

Returned from senate not concurred.
INTRODUCEC BY BILL NO. 433
gY RELUEST OF THE DEPARTMENT OF REVENUE
A bill for an act entitled: "an act to inlrease the
mtesest rate on delinguent personal minceme tax fíd ; PERCENT TO 15 PERCENT AND FROA 12 PERCENT TO 18 PERCENT WHEN a plezposeful cr knohing violatign is invelveg; fincreasing the interest rate on impreperly paio medical assistance; AMENDING SECTIONS 15-30-142, 15-30-321, AND 15-30-323, MCA; AND PREVIDING AN APPLICAEILIty DATE AND AN immediate EFFECTIVE DATE."
ee it enacted ry the legislature of the state of montana:
Section 1 . Section 15-3C-142, MCA, is amended to read: "15-30-142. Returns and paynent of tax -- penalty and interest -- refunds -- credits. (1) Every single individual anc every rarried individual not filing a joint return with his or her spouse and having a gross income for the taxable yoar of more than 5940 and married individuals not filing sefarate returns and having a combined gross income for the raxable year of more than $\$ 1,880$ shall be liable for a return to be filed on such forms and eccording to such rules as the department way prescribe. The gross income amounts referred to in the preceding sentence sinall be increasec 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 clait for binself and his spouse under the provisions of 15-30-112(2), (3), and (4) : as prorated according to 15-30-112(6).
(2) In accordence with instructions set forth oy 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 $e$ joint return with husband of wife even though one of the spouses has neither gross income nor deductions. If $\bar{a}$ 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 2 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 dily authorized agent or by a guardien or other person charged with the care of the person of properizy of such taxpayer.
(4) All taxpayars, including but not limited to those

INTRODUCED BILL
HB433
subject to the provisions of 15-30-20? and 15-30-241, shell compute the amount of income tax payable and shall, at the time of filing the return required by this chapter, pay to the feaartment eny balance of income tax remaining unpaid after crediting the amount withheld as provided by $15-3 \mathrm{c}-202$ and/or any payment made oy reason of an estimated tax return provided for in 15-30-241; provided, however, the t3x so computed is greater by $\$ 1$ than the amount withheld andfor paid by estimated return as provided in this chapter. If the amount of tax withheld and/or payment of estinated tax exceeds by more than 51 the amount of income tax as computed, the taxpayer sholl 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 ty the taxpayer to the departarent within 30 days after notice of the amount of the tax as computed, with interest added at the rate of 95 per annum or fraction thereof on the additional tax. In such case there shall be no penafty because of such understatement, provided the deficiency is paid within 30 days after the first notice of the amount is mailed to the taxpayer.*

Section 2. Section 15-30-321, MCA, is amended to read:
"15-30-321. Penalties for violation of crapter. (1) If any derson, without purposely or knowingly violating any requirement imposed by this chapter, fails to file a return of inconie on or before its due date (determined with regaro to an extension of time granted for filing the return), there shall be imposed a penalty of $5 \%$ of any balence of tex unpaid with respect to such return as of its due date, out in no event shall the penalty for failure to file a return by its due date be less than 55 . The depertment may abate the penalty if the taxpayer establishes that the failure to file on time was due to reasonable cause and was not oue to nealect on his perte If any person, without purposely or knowingly violating any requirement imposed by this chapter, fails to pay any tax on or before its due date (determined with regard to an extension of time granted for the filing of $\exists$ return), there shall be added to the tax a penalty of $10 \%$ of said tax, but not less than $\$ 5$. and interest shall accrue on the tax at the rate of 9\% $15 \%$ per annum for the entire period it remains unpaid. The depertment may abate the penalty if the taxpayer establishes that the failure to pay on time was due to reasonable cause and was not due to neglect on his part.
(2) If any person failst purposely or knowingly violating any requirement imposed by this chapter. to make a return of income or to pay a tax if one is due at the time
required by or under the provisions of this chapter, there shall be added to the tax an additional amount equal to $25 \%$ thereof, but such additional amount shall in no case be less
 of a month during which the tax remains unpaid.
(3) Any individual, corporation, or partnerstip or any officer or empioyee of any corporation or member or employee of any partnersnip who, with intent to evade any tax or any requirement of this chapter or any 1 awful requirement of the aepartment thereunder, purposely or knowingly, fails to pay the tax or to make, render, or sign any return or to supply any information within the time requirea by or under the provisions of this chapter or who, with like intent. furposely or knowingly makes, renderst or signs any false or frauculent return or statement or supplies any false or fraudulent information shall be liable to a penalty of not more than $\$ 1,000$, to be recovered by the attorney general in the name of the state by action in any court of competent jurisdiction, and shall also be guilty of misdemeanor and shall upon conviction be fined not to exceed $\$ 1,000$ or be imprisoned not to exceed 1 year, or both, at the discretion of the court.
(4) With respect to the imposition of a civil penalty, evidence produced by the departinent to the effect thet e tax has not been paid, that a return has not been filed, or that
information has not been supplied as required under the provisions of this chapter is prima facie evidence that the tax has not been paid, the return has not been filed, or the information has not been supplied."

Section 3. Section $15-30-323$, MCA, is amended to read:
n15-30-323. Penalty for deficiency. (1) If the paynent required by $15-30-142(6)$ is not made within 30 days or if the understateant 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; orovided, however, that no deficiency penalty shall be less than \$2. Interest will be computed at the rate of 9* 153 per annum or fraction thereof on the additional assessment. except as otherwise expressly provided in this subsection, the interest shall in 11 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\% 12 K per annum from the time when the return was originally required to be filed to the time of payment."

Section 4. Applicability. This act applies to personal incoae taxas and withholding taxes that become due on or after April 15, 1981, or that became due prior to April 15, 1981, and remain unpaid on or after April 15, 1981. The 15\%

1 or $18 \%$ rate, as appropriate, is applied to unpaid tax 2 commencing on April 15, 1931.

Section 5. Effective date. This act is effective on passage and approval.
-End-

Approved by Committee on Taxation

## HUUSE BILL NO. 433

## introduced by oozier

by request of the department of reveivue

a bill for an act entitled: "an act tu increase tie interest rate on delinduent persomal income tax frum 9 PERCENT TO $\mathbf{t 5} 12$ PERCENT ANO FROM 12 PERCENT TO $\pm \mathbb{S} 15$ PERCENT WHEN A PURPUSEFUL OR KNOWING VIULATION IS INVIVEU increasing the interest rate on improperiy paid medical ASISTANCE: AMENJING SECTIUNS 15-30-142. 15-30-321. AND 15-36-323, MCA; AND PROVIDING AN APPLICABILIIY DATE AND AN immediate effective dates*
$\$ 800$ for each additional personal exemption allowance the taxpayer is entitled to claimfor himself and his spouse under 15-30-h12(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 tis spouse under the provisions of $15-30-112(2)$ (3) and 14), as prorated according to 15-30-112(6)*
(2) In accordance with instructions set forth ay the department, every taxpayer who is married and living with nusband or wife and is required to file a return may, at his or her option, file a joint return with nusband 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 agyregate taxable incone 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 sucn taxpayer is unable to make his own return, the return shall be made dy 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 linited to those
subject to the provisions of 15-30-202 and 15-30-241, snall 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 $s l$ than the amount withheld sindor paid by estimatec return as provided in this chapter. If the amount of tax withheld andfor payment of estimated tax exceeds by more than 51 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 filear 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 oy the taxpayer to the department within 30 days after notice of the amount of the tax as computed. with interest added at the rate of $9 \% \pm \underline{5} \underline{\underline{*}} \underline{\underline{t}}$ 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 days after the first notice of the amount is mailed to the taxpayer."

Section 2. Section 15-30-321, MCA, is amended to read:
"15-3ij-321. Penalties for violation of chapter. (1) If any person, without purposely or knowingly violating any requirement imposed by this chapter, fails to file a return of income on or before its due date fdetermined with regard to an extension of time granted for filing the recurni. there shall be imposed a penalty of $5 \%$ of any balance uf tax umpaid with respect to such return as of its due date, but in no event shall the penalty for failure to file a return by its due date be less than 35 . The department may abate the penalty if the taxpayer establisnes that the failure to file on time was due to reasonable cause and was not due to neglect on his part. If any person. without purposely or knowingly violating any requirement imposea ay this chapter. fails to pay any tax on or before its due date (determined with regard to an extension of time granted for the filing of a return), there shall be added to the tax a penalty of 10\% of said tax, but not less than 55, and interest shall
 the entire period it remains unpaid. The department may abate the penalty if the taxpayer establishes that the failure to pay on time was due to reasonable cause and was not due to neglect on his part.
(2) If any person fails, purposely or knowingly violating any requirement imposed by this chapcer, to make a return of income or to pay a tax if one is due at the time
required by or under the provisions of this chapter, there shall oe added to the tax an additional amount equal to $25 \%$ thereof, but such additional amount shall in no case be less
 fraction of a month during which the tax remains unpaid.
(3) Any individual, corporation, or partnership or any officer or employee of any corporation or member or emplayee of any partnership who, with intent to evade any tax or any requifement of this chapter or any lawful requirement of the aepartment thereunder, purposely or knowingly, fails co pay the tax or to make, render, or sign any return or to supply any information within the time required by or under the provisions of this chapter or who, with like intent, purposely or knowingly makes, renders, or signs any false or fraudulent return or statement or supplies any false or frow iulent information shall be liable to penalty of not more than $\$ 1,000$, to be recovered by the attorney general in the name of the stace by action in any court of competent jurisdiction, and shali also be guilty of a misdemeanor and shall upon conviction be fined not to exceed $\$ 1,000$ or be imprisoned not to exceed 1 year, or both, at the discretion of the court.
(4) With respect to the imposition of a civit penalty, evidence produced by the department to the effect that a tax nas not been paid, that a return has not been filed, or that
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"15-30-323. Penalty for deficiency. (1) if the paynent required by $15-30-142(6)$ is not made within 30 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 5x thereaf; provided, however, that no deficiency penalty shall de less than 52 . Interest will be computed at the rate of 9 然 $\pm \underline{5}$ 12\% 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 originaliy due as distinguished from the due date as it may have been extended to the date of payment.
(<) If the time for filing a return is extended, the taxpayer shall pay in adoition interest thereon at the rate
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Section 4. Applicability . This act applies to personal income taxes and withholding taxes that become due on or after April 15, 1981, or that became due prior to April 15, 1901, and remain unpaiv on or after April 15* 1931. The t5*

## HB 0433/02

1 L23 or 48, 152 rate, as appropriate, is applied to unpaid

## 2 tax commencing on Apri] 15, 1981.

3 Section 5. Effective date. This act is effective on
4 passage and approval.
-End-

HUUSE BILL NO. 43s
intrgouced by dezier
gy REDUEST GF THE dEPARTMENT GF REVEqUE
a dill for an act entitled: "an act to increase tae INTEREST RATE ON JELINQUENT PERSONAL INLOME TAX FRUM 9 PEKCENI TO $\ddagger 512$ PERCENT ANO FROM 12 PERCENT TO $\pm 415$ PERCENT WHEN A PURPGSEFUL OR KNOWING VIULATION IS INVULVED; InCREASINS THE INTEREST RATE ON IMPROPERLY PaID medical ASSISTANLE; AMENDING SECTIGNS 15-30-142, 15-30-32I, ANO 15-30-323. MCA; ANE PROVITING AN APPLILABILITY DATE AND AN immedtate effective daje."
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Section 1. Section 15-30-142* MCA, is amended to read: -15-3L-142. Returns and payment of tax -- penalty and interest -- refunds -- credits. (1) Every single individudl anci every married individual not filing a joint return with his or her spouse and having a gross income for the taxable year of more thon 1940 and married indivijuals not filing separate returns and having a combined gross income for the taxable year of more than $\$ 1,880$ snall be liabie for a return to be filed on such forms and according to such rules as the tepartment may prescribe. Ine gross income amounts referred to in the preceding sentence shall be increased oy
$\$ 800$ for each adaitional personal exemption allowance the taxpayer 15 Entitled to claimfor 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 taxale year derived from sources within montana exceeds the amount of the exemption deduction he is entitled to claim for himself and mis 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 ay the department, every taxpayer who is married and living with nusband 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 neitiner gross income nor deductions. If a joint return is made, the tax shall de computed on the agyregate taxable income and the riability with respect to the tax shall de joint and several. if a joint return has deen 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 sucn taxpayer is unable to make nis own return, the return shall be made dy a duly authorized ajent or by a guordian or other person charged with the care of the person or property of such taxpayer.
(4) All taxpayers, including bur not linited to those
subject to the provisions of 15-30-202 and 15-30-24l, snall compute the amount of income tax payable and shall, at the time of filing the return required by this chapter, poy to the department any balance of income tax remaining umpaid after crediting the amount wathheld as provided by 1y-30-202 and/or any payment made oy reason of an estimated tax return provided for in 15-30-241; provided, however, the tax so computed is greater by sl than the amount withheld andor paid by estimateu 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.
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required by or under the provisions of this chapter, thero shall je added to the tax an additional amount equal tu 25\% thereof, but such additional amount shall in no case he less
 fraction of a month during which the tax remains unpaid.
(3) Any individual corporation, or partnership or any officer or employee of any corporation or member or employee of any partnership who, with intent to evade any tax or any requirement of this chapter or any lawful requirement of the department thereuncier, purposely or knowingly, fails to piy the tax or to make, render, or sign any return or to supply any information within the time required by or under the provisions of this chapter or who, wita like intenc. purposely or knowingly makes, renders, or siyns any false or fradulent return or statement or supplies any false or froualent information shall be liable to penalty of not more than il,0u0, to be recovered by the attorney general in the name of the state by action in any court of competant jurisdiction, and shall also be guilty of a misdemeanor and shall upon conviction be fined not to exceed $\$ 1,000$ or be imprisoned not to exceed 1 year, or both, at the discretion of the court.
(4) with respect to the imposition of a civil penalty, evidence produced by the department to the effect that a tax aas not been paid. thet 3 return has not been filed, or that
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"15-30-323. Penalty for deficiency. (1) If the payment. required by $15-30-142(6)$ is not made within 30 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; provideu, however, that no deficiency penalty shall be less than s2. Interest will be computed at the rate of 9\% $\ddagger$ 绿 $1 \underline{2}$ 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 nay 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
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Section 4. Applicability. This act applies to personal income taxes and witnholding taxes that become due on or after Auril 15, 1981, or that become due prior to April 1.5, 1901, and remain unpaid on or after April 15. 1981. The $\mathbf{t s ⿻}^{*}$

2 tax commencing on April 15. 1981.
Section 5. Effective date. This act is effective on
passage and approval.
-End-

