

House Bill 433

In The House

January 23, 1981	Introduced and referred to Committee on Taxation.
February 6, 1981	Committee recommend bill do pass as amended.
February 9, 1981	Bill printed and placed on members' desks.
February 10, 1981	Second reading do pass.
February 11, 1981	Correctly engrossed.
February 12, 1981	Third reading passed.

In The Senate

February 13, 1981	Introduced and referred to Committee on Taxation.
March 18, 1981	Committee recommend bill not concurred.

In The House

March 19, 1981	Returned from Senate not concurred.
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1 HOUSE BILL NO. 433
 2 INTRODUCED BY DOB
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE THE
 6 INTEREST RATE ON DELINQUENT PERSONAL INCOME TAX FROM 9
 7 PERCENT TO 15 PERCENT AND FROM 12 PERCENT TO 18 PERCENT WHEN
 8 A PURPOSEFUL OR KNOWING VIOLATION IS INVOLVED; INCREASING
 9 THE INTEREST RATE ON IMPROPERLY PAID MEDICAL ASSISTANCE;
 10 AMENDING SECTIONS 15-30-142, 15-30-321, AND 15-30-323, MCA;
 11 AND PROVIDING AN APPLICABILITY DATE AND AN IMMEDIATE
 12 EFFECTIVE DATE."

13
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 15-30-142, MCA, is amended to read:
 16 "15-30-142. Returns and payment of tax -- penalty and
 17 interest -- refunds -- credits. (1) Every single individual
 18 and every married individual not filing a joint return with
 19 his or her spouse and having a gross income for the taxable
 20 year of more than \$940 and married individuals not filing
 21 separate returns and having a combined gross income for the
 22 taxable year of more than \$1,880 shall be liable for a
 23 return to be filed on such forms and according to such rules
 24 as the department may prescribe. The gross income amounts
 25 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 days after notice of
 19 the amount of the tax as computed, with interest added at
 20 the rate of 9% ~~15%~~ 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 days after the first notice of the amount is
 24 mailed to the taxpayer."

25 Section 2. Section 15-30-321, MCA, is amended to read:

1 "15-30-321. Penalties for violation of chapter. (1) If
 2 any person, without purposely or knowingly violating any
 3 requirement imposed by this chapter, fails to file a return
 4 of income on or before its due date (determined with regard
 5 to an extension of time granted for filing the return),
 6 there shall be imposed a penalty of 5% of any balance of tax
 7 unpaid with respect to such return as of its due date, but
 8 in no event shall the penalty for failure to file a return
 9 by its due date be less than \$5. The department may abate
 10 the penalty if the taxpayer establishes that the failure to
 11 file on time was due to reasonable cause and was not due to
 12 neglect on his part. If any person, without purposely or
 13 knowingly violating any requirement imposed by this chapter,
 14 fails to pay any tax on or before its due date (determined
 15 with regard to an extension of time granted for the filing
 16 of a return), there shall be added to the tax a penalty of
 17 10% of said tax, but not less than \$5, and interest shall
 18 accrue on the tax at the rate of 9% ~~15%~~ per annum for the
 19 entire period it remains unpaid. The department may abate
 20 the penalty if the taxpayer establishes that the failure to
 21 pay on time was due to reasonable cause and was not due to
 22 neglect on his part.

23 (2) If any person fails, purposely or knowingly
 24 violating any requirement imposed by this chapter, to make a
 25 return of income or to pay a tax if one is due at the time

1 required by or under the provisions of this chapter, there
 2 shall be added to the tax an additional amount equal to 25%
 3 thereof, but such additional amount shall in no case be less
 4 than \$25, and interest at ~~1% 1.5%~~ for each month or fraction
 5 of a month during which the tax remains unpaid.

6 (3) Any individual, corporation, or partnership or any
 7 officer or employee of any corporation or member or employee
 8 of any partnership who, with intent to evade any tax or any
 9 requirement of this chapter or any lawful requirement of the
 10 department thereunder, purposely or knowingly, fails to pay
 11 the tax or to make, render, or sign any return or to supply
 12 any information within the time required by or under the
 13 provisions of this chapter or who, with like intent,
 14 purposely or knowingly makes, renders, or signs any false or
 15 fraudulent return or statement or supplies any false or
 16 fraudulent information shall be liable to a penalty of not
 17 more than \$1,000, to be recovered by the attorney general in
 18 the name of the state by action in any court of competent
 19 jurisdiction, and shall also be guilty of a misdemeanor and
 20 shall upon conviction be fined not to exceed \$1,000 or be
 21 imprisoned not to exceed 1 year, or both, at the discretion
 22 of the court.

23 (4) With respect to the imposition of a civil penalty,
 24 evidence produced by the department to the effect that a tax
 25 has not been paid, that a return has not been filed, or that

1 information has not been supplied as required under the
 2 provisions of this chapter is prima facie evidence that the
 3 tax has not been paid, the return has not been filed, or the
 4 information has not been supplied."

5 Section 3. Section 15-30-323, MCA, is amended to read:

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

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

22 Section 4. Applicability. This act applies to personal
 23 income taxes and withholding taxes that become due on or
 24 after April 15, 1981, or that became due prior to April 15,
 25 1981, and remain unpaid on or after April 15, 1981. The 15%

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

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

-End-

Approved by Committee
on Taxation

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19 his or her spouse and having a gross income for the taxable
20 year of more than \$940 and married individuals not filing
21 separate returns and having a combined gross income for the
22 taxable year of more than \$1,880 shall be liable for a
23 return to be filed on such forms and according to such rules
24 as the department may prescribe. The gross income amounts
25 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
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8 and (4), as prorated according to 15-30-112(6).
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10 department, every taxpayer who is married and living with
11 husband or wife and is required to file a return may, at his
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15 computed on the aggregate taxable income and the liability
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17 joint return has been filed for a taxable year, the spouses
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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
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25 Section 2. Section 15-30-321, MCA, is amended to read:

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23 (2) If any person fails, purposely or knowingly
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 25 return of income or to pay a tax if one is due at the time

1 required by or under the provisions of this chapter, there
 2 shall be added to the tax an additional amount equal to 25%
 3 thereof, but such additional amount shall in no case be less
 4 than \$25, and interest at ~~1%~~ 1.25% ~~1.25%~~ for each month or
 5 fraction of a month during which the tax remains unpaid.

6 (3) Any individual, corporation, or partnership or any
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 14 purposely or knowingly makes, renders, or signs any false or
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1 ~~12%~~ or ~~18%~~ 15% rate, as appropriate, is applied to unpaid
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