

House Bill 451

In The House

January 24, 1981	Introduced and referred to Committee on Taxation.
January 28, 1981	Fiscal note requested.
February 2, 1981	Fiscal note returned.
April 23, 1981	Died in Committee.

1 the state and its political subdivisions. In the absence of
 2 facts to the contrary, the address to which payments are
 3 made may be taken as the indicator of domicile.

4 ~~(3) If upon notice to a nonresident taxpayer and~~
 5 ~~hearing, the department finds that withholding should be~~
 6 ~~made on payments to the taxpayer for leases, rentals, or~~
 7 ~~royalties derived from property located within the state of~~
 8 ~~Montana in order to insure the collection of Montana state~~
 9 ~~income tax, it may order withholding on such payments in an~~
 10 ~~amount equal to the tax liability of the nonresident~~
 11 ~~taxpayer. Such order is binding upon all withholding agents~~
 12 ~~as hereinafter described, who receive a copy thereof by mail~~
 13 ~~or otherwise until such agent receives a copy of an order of~~
 14 ~~the department terminating such withholding as to the~~
 15 ~~nonresident taxpayer.~~

16 ~~(4) Payments made for livestock or agricultural~~
 17 ~~products raised or grown outside Montana and sold at a~~
 18 ~~market within this state are not subject to withholding~~
 19 ~~under this section."~~

20 Section 2. Section 15-30-222, MCA, is amended to read:

21 "15-30-222. Withholding agent -- quarterly payments.

22 (1) Every such A person, firm, et cetera, required to withhold
 23 such payments under 15-30-221 shall be is known as a
 24 withholding agent within the meaning of 15-30-221 through
 25 15-30-228.

1 (2) Withholding Except as provided in subsection (3),
 2 withholding agents required to deduct and withhold tax
 3 payments under the provisions of 15-30-221 shall remit such
 4 payments monthly quarterly to the department of revenue, for
 5 each monthly period on or before the 15th day of the month
 6 following the close of such monthly period, except that
 7 payments for the month of December shall be made on or
 8 before the following January 31, payments for the month of
 9 March shall be made on or before the following April 30,
 10 payments for the month of June shall be made on or before
 11 the following July 31, and payments for the month of
 12 September shall be made on or before the following October
 13 31. The quarterly payments are to be made on the last day of
 14 April, July, October, and January for the preceding calendar
 15 quarters.

16 (3) When the aggregate total amount of the tax
 17 withheld under the provisions of 15-30-221 shall amount
 18 amounts to less than \$50 in each quarterly period of any
 19 year, such a withholding agent shall not be required to file
 20 the monthly returns or to make the monthly payments as
 21 hereinabove provided for, but in lieu thereof such
 22 withholding agent shall on or before February 15 of the
 23 year next succeeding that in which such payments were
 24 withheld file an annual return in such form as shall be
 25 determined by the department and shall pay therewith the

1 amount--required--by--15-30-221--through--15-30-228--to---be
 2 deducted--and--withheld--by--such--withholding-agent--from--all
 3 payments--paid--during--the--preceding--calendar--year. may elect
 4 to file an annual return and make annual payments in lieu of
 5 quarterly payments. The annual return and payment are due by
 6 February 15 for the preceding calendar year."

7 Section 3. Section 15-30-223, MCA, is amended to read:

8 "15-30-223. Modification of nonresident withholding.
 9 The conditions set forth in ~~subsections (1) through (3)~~ of
 10 15-30-221 may be modified by the department provided:

11 (1) the withholding agent ~~shall insure~~ insures the
 12 department by bond or deposit of securities subject to
 13 approval by the state treasurer or cash which shall not bear
 14 interest that he will comply with the withholding
 15 requirements insofar as his obligation as a withholding
 16 agent is concerned; or

17 (2) the nonresident taxpayer ~~shall furnish~~ furnishes
 18 to the department under such rules as it may prescribe an
 19 affidavit as to the correct amount of taxable income subject
 20 to the provisions of 15-30-221 through 15-30-228, in which
 21 case the department shall determine the amount to be
 22 withheld."

23 Section 4. Section 15-30-227, MCA, is amended to read:

24 "15-30-227. Rights of nonresident taxpayer. (1) No
 25 nonresident ~~A~~ taxpayer ~~shall does not~~ have any right of

1 action against a withholding agent on account of any moneys
 2 ~~money~~ withheld and paid over to the department under
 3 15-30-221 through 15-30-228, ~~but nothing in this~~ This
 4 section ~~shall may not~~ be construed as removing any legal
 5 rights or remedies of such nonresident taxpayer for return
 6 of any tax erroneously or illegally collected or for any
 7 refund that may be due ~~him~~ the taxpayer.

8 (2) For the purposes of any contract, lease, or other
 9 obligation, any sum withheld pursuant to 15-30-221 through
 10 15-30-228 ~~shall be deemed is considered~~ to have been paid to
 11 ~~the nonresident~~ at the time of such withholding."

12 Section 5. Section 15-30-301, MCA, is amended to read:

13 "15-30-301. Information agents' duties -- ~~penalty~~. (1)
 14 Every information agent shall make return to the department
 15 of complete information concerning the following
 16 distributions made for any individual during the taxable
 17 year upon which no withholding tax has been deducted:

18 (a) sums in excess of ~~\$10~~ \$200 distributed as
 19 dividends, interest as defined in section 6049 of the
 20 Internal Revenue Code of 1965 or as that section may be
 21 amended, and payments made under a retirement plan covering
 22 an owner-employee as defined in section 401(c)(3) of the
 23 Internal Revenue Code of 1965 or as that section may be
 24 amended;

25 (b) interest, other than that specified in subsection

1 (1)(a) of this section, rents, royalties, salaries, wages,
2 prizes, awards, annuities, pensions, and other fixed or
3 determinable gains, profits, and income in excess of \$600
4 \$1,000, except interest coupons payable to the bearer;

5 ~~(c) payments made to individuals not domiciled in~~
6 ~~Montana for sales of real property located in Montana.~~

7 (2) The return should be made under the regulations
8 and in the form and manner prescribed by the department;
9 provided, however, that for ease of reporting, the form
10 shall be as nearly identical to the comparable federal form
11 as possible.

12 ~~(3) In the absence of facts to the contrary, the~~
13 ~~address to which a payment is made may be taken as the~~
14 ~~indicator of domicile.~~

15 ~~(4) Failure to file a return required by this section~~
16 ~~subjects the withholding agent to a penalty of \$1 for each~~
17 ~~return, up to a maximum of \$1,000."~~

18 Section 6. Section 20-15-403, MCA, is amended to read:

19 "20-15-403. Applications of other school district
20 provisions. (1) When the term "school district" appears or
21 is contained in a collective noun in the following sections
22 outside of Title 20, the term includes community college
23 districts and the provisions of those sections applicable to
24 school districts apply to community college districts:
25 2-9-101, 2-9-111, 2-9-316, 2-16-114, 2-16-602, 2-16-614,

1 2-18-703, 7-3-1101, 7-6-2604, 7-6-2801, 7-7-123, 7-8-2214,
2 7-8-2215, 7-8-2216, 7-11-103, 7-12-4106, 7-13-110, 7-13-210,
3 7-15-4206, 10-1-703, 15-1-101, 15-6-204, 15-16-101,
4 15-16-601, 15-18-108, 15-24-502, 15-24-505, 15-30-221,
5 15-55-106, 15-70-301, 15-70-322, 17-5-101, 17-5-202,
6 17-6-103, 17-6-204, 17-6-213, 17-7-201, 13-1-102, 18-1-105,
7 18-1-112, 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114,
8 18-2-115, 18-2-404, 18-2-406, 18-5-205, 19-1-102, 19-1-602,
9 19-1-811, 22-1-309, 25-1-402, 27-18-406, 33-20-1104,
10 39-3-104, 39-4-107, 39-31-103, 39-31-304, 39-71-116,
11 39-71-117, 39-71-2106, 39-71-2206, 40-6-237, 40-8-124,
12 40-8-125, 40-8-128, 41-5-912, 49-3-101, 49-3-102, 53-20-304,
13 77-3-321, 82-10-201, 82-10-202, 82-10-203, 85-7-2158, and
14 90-6-208 and Rules 40(2)(g) and 15(c), M.R.Civ.P., as
15 amended.

16 (2) When the term "school district" appears in a
17 section outside of Title 20 but the section is not listed in
18 subsection (1), the school district provision does not apply
19 to a community college district."

20 Section 7. Applicability. This act applies to tax
21 years beginning after December 31, 1981.

-End-

STATE OF MONTANA

REQUEST NO. 233-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 28, 19 81, there is hereby submitted a Fiscal Note for House Bill 451 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

An act to revise the nonresident income tax withholding laws; providing for withholding on certain payments and reporting on certain payments and using a test of domicile for withholding and reporting.

FISCAL IMPACT

This bill would increase the minimum amounts which legally necessitate withholding payments for certain types of non-wage transactions involving nonresident individuals. However, it is believed that adoption of this proposal would not result in a significant loss of revenue. These changes would definitely clarify the law and, thereby, make compliance easier for those who are involved in making taxable payments to nonresidents.

PREPARED BY THE DEPARTMENT OF REVENUE

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-2-81