

SENATE BILL NO. 361

INTRODUCED BY LEE, GOODOVER

IN THE SENATE

February 3, 1981	Introduced and referred to Committee on Taxation.
	Fiscal note requested.
February 11, 1981	Fiscal note returned.
March 7, 1981	Committee recommend bill do pass. Report adopted.
March 9, 1981	Bill printed and placed on members' desks.
March 10, 1981	Second reading, do pass.
March 11, 1981	Correctly engrossed.
March 12, 1981	Third reading, passed. Ayes, 48; Noes, 2. Transmitted to House.

IN THE HOUSE

March 13, 1981	Introduced and referred to Committee on Taxation.
April 11, 1981	Committee recommend bill be concurring in. Report adopted.
April 17, 1981	Second reading, concurred in.
	On motion rules suspended and bill placed on third reading this day.
	Third reading, concurred in. Ayes, 67; Noes, 25.

IN THE SENATE

April 21, 1981

Returned from House. Con-
curred in. Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. *361*
 2 INTRODUCED BY *Case Gordon*

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT DOMESTIC
 5 INTERNATIONAL SALES CORPORATIONS FROM THE CORPORATE LICENSE
 6 TAX; AND TO TAX THE SHAREHOLDERS OF DOMESTIC INTERNATIONAL
 7 SALES CORPORATIONS; AMENDING SECTIONS 15-30-111 AND
 8 15-31-102, MCA."

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

11 Section 1. Section 15-31-102, MCA, is amended to read:

12 "15-31-102. Organizations exempt from tax -- unrelated
 13 business income not exempt. (1) Except as provided in
 14 subsection (3), there shall not be taxed under this title
 15 any income received by any:

16 (a) labor, agricultural, or horticultural
 17 organization;

18 (b) fraternal beneficiary, society, order, or
 19 association operating under the lodge system or for the
 20 exclusive benefit of the members of a fraternity itself
 21 operating under the lodge system and providing for the
 22 payment of life, sick, accident, or other benefits to the
 23 members of such society, order, or association or their
 24 dependents;

25 (c) cemetery company owned and operated exclusively

1 for the benefit of its members;

2 (d) corporation or association organized and operated
 3 exclusively for religious, charitable, scientific, or
 4 educational purposes, no part of the net income of which
 5 inures to the benefit of any private stockholder or
 6 individual;

7 (e) business league, chamber of commerce, or board of
 8 trade not organized for profit and no part of the net income
 9 of which inures to the benefit of any private stockholder or
 10 individual;

11 (f) civic league or organization not organized for
 12 profit but operated exclusively for the promotion of social
 13 welfare;

14 (g) club organized and operated exclusively for
 15 pleasure, recreation, and other nonprofitable purposes, no
 16 part of the net income of which inures to the benefit of any
 17 private stockholder or members;

18 (h) farmers' or other mutual hail, cyclone, or fire
 19 insurance company, mutual ditch or irrigation company,
 20 mutual or cooperative telephone company, or like
 21 organization of a purely local character, the income of
 22 which consists solely of assessments, dues, and fees
 23 collected from members for the sole purpose of meeting its
 24 expenses;

25 (i) cooperative association or corporation engaged in

1 the business of operating a rural electrification system or
2 systems for the transmission or distribution of electrical
3 energy on a cooperative basis;

4 (j) corporations or associations organized for the
5 exclusive purpose of holding title to property, collecting
6 income therefrom, and turning over the entire amount
7 thereof, less expenses, to an organization which itself is
8 exempt from the tax imposed by this title;

9 (k) wool and sheep pool, which is an association owned
10 and operated by agricultural producers organized to market
11 association members' wool and sheep, the income of which
12 consists solely of assessments, dues, and fees collected
13 from members for the sole purpose of meeting its expenses.
14 Income, for this purpose, does not include expenses and
15 money distributed to members contributing wool and sheep;

16 (l) corporation that qualifies as a domestic
17 international sales corporation (DISC) under the provisions
18 of sections 991, et seq., of the Internal Revenue Code and
19 that has in effect for the entire taxable year a valid
20 election under federal law to be treated as a DISC. If a
21 corporation makes such an election under federal law, each
22 person who at any time is a shareholder of such corporation
23 is subject to taxation under Title 15, chapter 30, on the
24 earnings and profits of this DISC in the same manner as
25 provided by federal law for all periods for which the

1 election is effective.

2 (2) In determining the license fee to be paid under
3 this part, there shall not be included any earnings derived
4 from any public utility managed or operated by any
5 subdivision of the state or from the exercise of any
6 governmental function.

7 (3) Any unrelated business income, as defined by
8 section 512 of the Internal Revenue Code, 1954, as amended,
9 earned by any exempt corporation resulting in a federal
10 unrelated business income tax liability of more than \$100
11 shall be taxed as other corporation income is taxed under
12 this title. An exempt corporation subject to taxation on
13 unrelated business income under this section must file a
14 copy of its federal exempt organization business income tax
15 return on which it reports its unrelated business income
16 with the department of revenue."

17 Section 2. Section 15-30-111, MCA, is amended to read:
18 "15-30-111. Adjusted gross income. (1) Adjusted gross
19 income shall be the taxpayer's federal income tax adjusted
20 gross income as defined in section 62 of the Internal
21 Revenue Code of 1954 or as that section may be labeled or
22 amended and in addition shall include the following:

23 (a) Interest received on obligations of another state
24 or territory or county, municipality, district, or other
25 political subdivision thereof;

1 (b) refunds received of federal income tax, to the
2 extent the deduction of such tax resulted in a reduction of
3 Montana income tax liability.

4 (2) Adjusted gross income does not include the
5 following which are exempt from taxation under this chapter:

6 (a) interest income from obligations of the United
7 States government, the state of Montana, county,
8 municipality, district, or other political subdivision
9 thereof;

10 (b) all benefits received under the Federal Employees'
11 Retirement Act not in excess of \$3,600;

12 (c) all benefits paid under the teachers' retirement
13 law which are specified as exempt from taxation by 19-4-706;

14 (d) all benefits paid under The Public Employees'
15 Retirement System Act which are specified as exempt from
16 taxation by 19-3-105;

17 (e) all benefits paid under the highway patrol
18 retirement law which are specified as exempt from taxation
19 by 19-6-705;

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

21 (g) all benefits paid under 19-11-602, 19-11-604, and
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23 surviving spouses and orphans;

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

1 19, chapter 9.

2 (3) In the case of a shareholder of a corporation with
3 respect to which the election provided for under subchapter
4 S. of the Internal Revenue Code of 1954, as amended, is in
5 effect but with respect to which the election provided for
6 under 15-31-202, as amended, is not in effect, adjusted
7 gross income does not include any part of the corporation's
8 undistributed taxable income, net operating loss, capital
9 gains or other gains, profits, or losses required to be
10 included in the shareholder's federal income tax adjusted
11 gross income by reason of the said election under subchapter
12 S. However, the shareholder's adjusted gross income shall
13 include actual distributions from the corporation to the
14 extent they would be treated as taxable dividends if the
15 subchapter S. election were not in effect.

16 ~~(4) A shareholder of a DISC that is exempt from the~~
17 ~~corporation license tax under 15-31-103(1)(1) shall include~~
18 ~~in his adjusted gross income the earnings and profits of the~~
19 ~~DISC in the same manner as provided by federal law (section~~
20 ~~995 Internal Revenue Code) for all periods for which the~~
21 ~~DISC election is effective."~~

22 Section 3. Applicability. This act applies to taxable
23 years beginning after December 31, 1981.

-End-

STATE OF MONTANA

REQUEST NO. 299-81

FISCAL NOTE

Form BD-15

In compliance with a written request received February 6, 1981, there is hereby submitted a Fiscal Note for SENATE BILL 361 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.

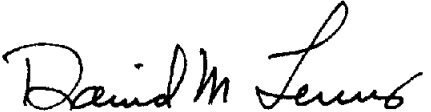
DESCRIPTION

An act to exempt domestic international sales corporations from the corporate license tax; and to tax shareholders of domestic international sales corporations.

FISCAL IMPACT

The precise fiscal impact of this legislation can not be determined without an extremely time intensive review of at least 12,000 files. We estimate the impact to be approximately \$250,000 per year.

PREPARED BY THE DEPARTMENT OF REVENUE



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-11-81

Approved by Committee
on Taxation

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2 INTRODUCED BY Carl Gordon

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23 members of such society, order, or association or their
24 dependents;

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INTRODUCED BY Senate Bill No. 361
Core Gordon

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SB 361

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19 by 19-6-705;

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

21 (g) all benefits paid under 19-11-602, 19-11-604, and
22 19-11-605 to retired and disabled firefighters, their
23 surviving spouses and orphans;

24 (h) all benefits paid by first- or second-class cities
25 for the policemen's retirement system provided for by Title

1 19, chapter 9.

2 (3) In the case of a shareholder of a corporation with
3 respect to which the election provided for under subchapter
4 S. of the Internal Revenue Code of 1954, as amended, is in
5 effect but with respect to which the election provided for
6 under 15-31-202, as amended, is not in effect, adjusted
7 gross income does not include any part of the corporation's
8 undistributed taxable income, net operating loss, capital
9 gains or other gains, profits, or losses required to be
10 included in the shareholder's federal income tax adjusted
11 gross income by reason of the said election under subchapter
12 S. However, the shareholder's adjusted gross income shall
13 include actual distributions from the corporation to the
14 extent they would be treated as taxable dividends if the
15 subchapter S. election were not in effect.

16 (4) A shareholder of a DISC that is exempt from the
17 corporation license tax under 15-31-103(1)(1) shall include
18 in his adjusted gross income the earnings and profits of the
19 DISC in the same manner as provided by federal law (section
20 995 Internal Revenue Code) for all periods for which the
21 DISC election is effective."

22 Section 3. Applicability. This act applies to taxable
23 years beginning after December 31, 1981.

-End-