

HOUSE BILL NO. 550

Introduced: 01/28/83

Referred to Committee on Taxation: 01/28/83

Hearing: 2/3/83

Report: 03/17/83, Do Not Pass

Objection: 3/17/83

2nd Reading: 03/22/83, Do Pass

3rd Reading: 03/23/83, Do Pass

Transmitted to Senate: 3/23/83

Referred to Committee on Taxation: 03/24/83

Hearing: 3/31/83

Report: 4/1/83 Be Not Concurred In

Bill Killed: 04/01/83

House BILL NO. *550*

INTRODUCED BY *Madley*
BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO LIMIT A MONTANA CORPORATE TAXPAYER TO THE USE OF ONLY THOSE DEDUCTIONS SET FORTH IN SECTION 15-31-114, MCA; AND TO DISALLOW THE USE OF FEDERAL INTERNAL REVENUE CODE DEDUCTIONS IN THE CALCULATION OF NET INCOME FOR MONTANA CORPORATION LICENSE TAX PURPOSES; AMENDING SECTION 15-31-113, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

WHEREAS, the Montana Supreme Court has developed by case law a judicial doctrine of incorporating the deductions contained in the federal Internal Revenue Code into the definition of "net income" for Montana corporation license tax purposes.

THEREFORE, it is the intent of this bill to abrogate this judicial interpretation and provide that the only deductions allowable in calculating net income are those set forth in section 15-31-114, MCA, and not any deduction contained in the federal Internal Revenue Code unless specifically provided otherwise by Montana statute.

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

Section 1. Section 15-31-113, MCA, is amended to read:

"15-31-113. Gross income and net income. (1) The term "gross income" means all income recognized in determining the corporation's gross income for federal income tax purposes and:

(a) including:

(i) interest exempt from federal income tax;

(ii) the portion of gain from a liquidation of the reporting corporation not recognized for federal corporate income tax purposes pursuant to sections 331 through 337 of the Internal Revenue Code (as those sections may be amended or renumbered) attributable to stockholders, either individual or corporate, not subject to Montana income or license tax under Title 15, chapter 30 or chapter 31, as appropriate, on the gain passing through to the stockholders pursuant to federal law; and

(b) excluding gain recognized for federal tax purposes as a shareholder of a liquidating corporation pursuant to sections 331 through 337 of the Internal Revenue Code (as those sections may be amended or renumbered) when the gain is required to be recognized by the liquidating corporation pursuant to subsection (1)(a)(ii) of this section.

(2) The term "net income" means the gross income of the corporation less the only those deductions set forth in 15-31-114. The definition of net income set forth in this

1 section may not be construed to allow any deduction
2 contained in the federal Internal Revenue Code unless that
3 deduction is expressly provided for in this chapter.

4 (3) No corporation is exempt from the corporation
5 license tax unless specifically provided for under
6 15-31-101(3) or 15-31-102. Any corporation not subject to or
7 liable for federal income tax but not exempt from the
8 corporation license tax under 15-31-101(3) or 15-31-102
9 shall compute gross income for corporation license tax
10 purposes in the same manner as a corporation that is subject
11 to or liable for federal income tax according to the
12 provisions for determining gross income in the federal
13 Internal Revenue Code in effect for the taxable year."

14 NEW SECTION. Section 2. Severability. If a part of
15 this act is invalid, all valid parts that are severable from
16 the invalid part remain in effect. If a part of this act is
17 invalid in one or more of its applications, the part remains
18 in effect in all valid applications that are severable from
19 the invalid applications.

20 NEW SECTION. Section 3. Effective date --
21 applicability date. This act is effective on passage and
22 approval and applies to taxable years beginning after
23 December 31, 1982.

-End-

STATE OF MONTANA

REQUEST NO. 286-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 31, 19 83, there is hereby submitted a Fiscal Note for House Bill 550 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.

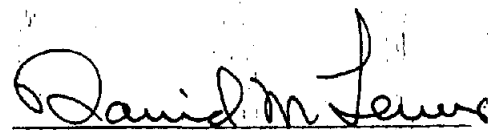
DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 550 limits a Montana corporate taxpayer to the use of only those deductions set forth in Section 15-31-114, MCA; disallows the use of Federal Internal Revenue code deductions in the calculation of net income for Montana corporation license tax purposes; and provides an immediate effective date and an applicability date.

FISCAL IMPACT:

It is not possible to know how many corporations may have potential deductions allowed under federal law which are not expressly permitted by state law. On the basis of research done in connection with litigation, it is believed that, if all such deductions were disallowed, the state would collect \$1,200,000 in additional corporation license tax revenue annually. In the absence of this provision, corporation license tax collections will drop below current estimates if greater numbers of taxpayers avail themselves of such deductions.

FISCAL NOTE 10:P/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-3-83

committee on taxation
Recommend do not pass
Objection Raised to
Adverse Committee Report

1 House BILL NO. 550
2 INTRODUCED BY Madley
3 BY REQUEST OF THE DEPARTMENT OF REVENUE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO LIMIT A MONTANA
6 CORPORATE TAXPAYER TO THE USE OF ONLY THOSE DEDUCTIONS SET
7 FORTH IN SECTION 15-31-114, MCA; AND TO DISALLOW THE USE OF
8 FEDERAL INTERNAL REVENUE CODE DEDUCTIONS IN THE CALCULATION
9 OF NET INCOME FOR MONTANA CORPORATION LICENSE TAX PURPOSES;
10 AMENDING SECTION 15-31-113, MCA; AND PROVIDING AN IMMEDIATE
11 EFFECTIVE DATE AND AN APPLICABILITY DATE."
12
13 WHEREAS, the Montana Supreme Court has developed by
14 case law a judicial doctrine of incorporating the deductions
15 contained in the federal Internal Revenue Code into the
16 definition of "net income" for Montana corporation license
17 tax purposes.
18
19 THEREFORE, it is the intent of this bill to abrogate
20 this judicial interpretation and provide that the only
21 deductions allowable in calculating net income are those set
22 forth in section 15-31-114, MCA, and not any deduction
23 contained in the federal Internal Revenue Code unless
24 specifically provided otherwise by Montana statute.
25
26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 Section 1. Section 15-31-113, MCA, is amended to read:
2 "15-31-113. Gross income and net income. (1) The term
3 "gross income" means all income recognized in determining
4 the corporation's gross income for federal income tax
5 purposes and:
6 (a) including:
7 (i) interest exempt from federal income tax;
8 (ii) the portion of gain from a liquidation of the
9 reporting corporation not recognized for federal corporate
10 income tax purposes pursuant to sections 331 through 337 of
11 the Internal Revenue Code (as those sections may be amended
12 or renumbered) attributable to stockholders, either
13 individual or corporate, not subject to Montana income or
14 license tax under Title 15, chapter 30 or chapter 31, as
15 appropriate, on the gain passing through to the stockholders
16 pursuant to federal law; and
17 (b) excluding gain recognized for federal tax purposes
18 as a shareholder of a liquidating corporation pursuant to
19 sections 331 through 337 of the Internal Revenue Code (as
20 those sections may be amended or renumbered) when the gain
21 is required to be recognized by the liquidating corporation
22 pursuant to subsection (1)(a)(ii) of this section.
23 (2) The term "net income" means the gross income of
24 the corporation less the only those deductions set forth in
25 15-31-114. The definition of net income set forth in this

SECOND READING

-2-

H/R 550

1 ~~section may not be construed to allow any deduction~~
 2 ~~contained in the federal Internal Revenue Code unless that~~
 3 ~~deduction is expressly provided for in this chapter.~~

4 (3) No corporation is exempt from the corporation
 5 license tax unless specifically provided for under
 6 15-31-101(3) or 15-31-102. Any corporation not subject to or
 7 liable for federal income tax but not exempt from the
 8 corporation license tax under 15-31-101(3) or 15-31-102
 9 shall compute gross income for corporation license tax
 10 purposes in the same manner as a corporation that is subject
 11 to or liable for federal income tax according to the
 12 provisions for determining gross income in the federal
 13 Internal Revenue Code in effect for the taxable year."

14 NEW SECTION. Section 2. Severability. If a part of
 15 this act is invalid, all valid parts that are severable from
 16 the invalid part remain in effect. If a part of this act is
 17 invalid in one or more of its applications, the part remains
 18 in effect in all valid applications that are severable from
 19 the invalid applications.

20 NEW SECTION. Section 3. Effective date --
 21 applicability date. This act is effective on passage and
 22 approval and applies to taxable years beginning after
 23 December 31, 1982.

-End-

House BILL NO. 550

INTRODUCED BY Spadley
BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO LIMIT A MONTANA CORPORATE TAXPAYER TO THE USE OF ONLY THOSE DEDUCTIONS SET FORTH IN SECTION 15-31-114, MCA; AND TO DISALLOW THE USE OF FEDERAL INTERNAL REVENUE CODE DEDUCTIONS IN THE CALCULATION OF NET INCOME FOR MONTANA CORPORATION LICENSE TAX PURPOSES; AMENDING SECTION 15-31-113, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

WHEREAS, the Montana Supreme Court has developed by case law a judicial doctrine of incorporating the deductions contained in the federal Internal Revenue Code into the definition of "net income" for Montana corporation license tax purposes.

THEREFORE, it is the intent of this bill to abrogate this judicial interpretation and provide that the only deductions allowable in calculating net income are those set forth in section 15-31-114, MCA, and not any deduction contained in the federal Internal Revenue Code unless specifically provided otherwise by Montana statute.

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

Section 1. Section 15-31-113, MCA, is amended to read:

"15-31-113. Gross income and net income. (1) The term "gross income" means all income recognized in determining the corporation's gross income for federal income tax purposes and:

(a) including:

(i) interest exempt from federal income tax;

(ii) the portion of gain from a liquidation of the reporting corporation not recognized for federal corporate income tax purposes pursuant to sections 331 through 337 of the Internal Revenue Code (as those sections may be amended or renumbered) attributable to stockholders, either individual or corporate, not subject to Montana income or license tax under Title 15, chapter 30 or chapter 31, as appropriate, on the gain passing through to the stockholders pursuant to federal law; and

(b) excluding gain recognized for federal tax purposes as a shareholder of a liquidating corporation pursuant to sections 331 through 337 of the Internal Revenue Code (as those sections may be amended or renumbered) when the gain is required to be recognized by the liquidating corporation pursuant to subsection (1)(a)(ii) of this section.

(2) The term "net income" means the gross income of the corporation less the only those deductions set forth in 15-31-114. The definition of net income set forth in this

THIRD READING

1 section may not be construed to allow any deduction
2 contained in the federal Internal Revenue Code unless that
3 deduction is expressly provided for in this chapter.

4 (3) No corporation is exempt from the corporation
5 license tax unless specifically provided for under
6 15-31-101(3) or 15-31-102. Any corporation not subject to or
7 liable for federal income tax but not exempt from the
8 corporation license tax under 15-31-101(3) or 15-31-102
9 shall compute gross income for corporation license tax
10 purposes in the same manner as a corporation that is subject
11 to or liable for federal income tax according to the
12 provisions for determining gross income in the federal
13 Internal Revenue Code in effect for the taxable year."

14 **NEW SECTION.** Section 2. Severability. If a part of
15 this act is invalid, all valid parts that are severable from
16 the invalid part remain in effect. If a part of this act is
17 invalid in one or more of its applications, the part remains
18 in effect in all valid applications that are severable from
19 the invalid applications.

20 **NEW SECTION.** Section 3. Effective date --
21 applicability date. This act is effective on passage and
22 approval and applies to taxable years beginning after
23 December 31, 1982.

-End-