

HOUSE BILL NO. 644

INTRODUCED BY YARDLEY, WILLIAMS

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE HOUSE

February 4, 1983	Introduced and referred to Committee on Taxation.
February 14, 1983	Committee recommend bill do pass. Report adopted. Bill printed and placed on members' desks.
February 15, 1983	Second reading, do pass.
February 16, 1983	Considered correctly engrossed.
February 17, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 18, 1983	Introduced and referred to Committee on Taxation.
March 9, 1983	Committee recommend bill be concurred in. Report adopted.
March 11, 1983	Second reading, concurred in.
March 14, 1983	Third reading, concurred in. Ayes, 49; Noes, 0.

IN THE HOUSE

March 14, 1983	Returned to House.
March 15, 1983	Sent to enrolling. Reported correctly enrolled.

House BILL NO. 644

INTRODUCED BY Anthony Williams

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY SECTION 15-31-544, MCA, RELATING TO ACTION ON A FALSE OR FRAUDULENT INCOME TAX RETURN; AMENDING SECTIONS 15-31-509 AND 15-31-544, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-31-544, MCA, is amended to read:

"15-31-544. ~~Statute-of-limitations Action on false or fraudulent return. (1) Except as provided in subsection (2), on action to collect a past due tax imposed pursuant to this chapter or to enforce a provision of this chapter must be brought within 5 years of the due date of the tax or the date of filing the return, whichever is later.~~

(2) Whenever a return is required to be filed and the taxpayer files a fraudulent return or fails to file the return, ~~an action to collect the tax may be brought at any time. Whenever a return is required to be filed and the taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until~~ discovery of the fraud by the department may at any time

~~assess the tax or begin a proceeding in court for the collection of the tax without assessment."~~

Section 2. Section 15-31-509, MCA, is amended to read:

"15-31-509. Periods of limitation. (1) Except as otherwise provided in this section and in ~~15-31-542~~ 15-31-544, no deficiency shall be assessed or collected with respect to the year for which a return is filed unless the notice of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the purposes of this section, a return filed before the last day prescribed for filing shall be considered as filed on such last day. Where, before the expiration of the period prescribed for assessment of the tax, the taxpayer consents in writing to an assessment after the time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The limitations prescribed for giving notice of a proposed assessment of additional tax shall not apply when:

(a) the taxpayer has by written agreement suspended the federal statute of limitations for collection of federal tax, provided the suspension of the limitation set forth in this section shall last:

(i) only so long as the suspension of the federal statute of limitation; or

(ii) until 1 year after any federal changes have become

1 final or any amended federal return is filed as a result of
 2 such suspension of the federal statute, whichever is the
 3 latest in time; or

4 (b) a taxpayer has failed to file a report of changes
 5 in federal taxable income or an amended return as required
 6 by 15-31-506 until 5 years after the federal changes become
 7 final or the amended federal return was filed, whichever the
 8 case may be.

9 (2) No refund or credit shall be allowed or paid with
 10 respect to the year for which a return is filed after 5
 11 years from the last day prescribed for filing the return or
 12 after 1 year from the date of the overpayment, whichever
 13 period expires the later, unless before the expiration of
 14 such period the taxpayer files a claim therefor or the
 15 department of revenue has determined the existence of the
 16 overpayment and has approved the refund or credit thereof.
 17 If the taxpayer has agreed in writing under the provisions
 18 of subsection (1) of this section to extend the time within
 19 which the department may propose an additional assessment,
 20 the period within which a claim for refund or credit may be
 21 filed or a credit or refund allowed in the event no claim is
 22 filed shall automatically be so extended."

23 NEW SECTION. Section 3. Severability. If a part of
 24 this act is invalid, all valid parts that are severable from
 25 the invalid part remain in effect. If a part of this act is

1 invalid in one or more of its applications, the part remains
 2 in effect in all valid applications that are severable from
 3 the invalid applications.

4 NEW SECTION. Section 4. Applicability. This act
 5 applies to tax years beginning after December 31, 1982, and
 6 to all prior tax years for which the liability for taxes has
 7 not been discharged by statute.

8 NEW SECTION. Section 5. Effective date. This act is
 9 effective on passage and approval.

-End-

Approved by committee
on Taxation

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14 ~~fraudulent return. (1) Except as provided in subsection (2),~~
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17 ~~brought within 5 years of the due date of the tax or the~~
18 ~~date of filing the return, whichever is later.~~
19 (2) Whenever a return is required to be filed and the
20 taxpayer files a fraudulent return or fails to file the
21 return, an action to collect the tax may be brought at any
22 time whenever a return is required to be filed and the
23 taxpayer files a fraudulent return, the 5-year period
24 provided for in subsection (1) does not begin until
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22 this section shall last:
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24 statute of limitation; or
25 (ii) until 1 year after any federal changes have become

1 final or any amended federal return is filed as a result of
2 such suspension of the federal statute, whichever is the
3 latest in time; or

4 (b) a taxpayer has failed to file a report of changes
5 in federal taxable income or an amended return as required
6 by 15-31-506 until 5 years after the federal changes become
7 final or the amended federal return was filed, whichever the
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15 department of revenue has determined the existence of the
16 overpayment and has approved the refund or credit thereof.
17 If the taxpayer has agreed in writing under the provisions
18 of subsection (1) of this section to extend the time within
19 which the department may propose an additional assessment,
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(2) Whenever a return is required to be filed and the taxpayer files a fraudulent return or fails to file the return, ~~on action to collect the tax may be brought at any time.~~ ~~Whenever a return is required to be filed and the taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery of the fraud by the department may at any time~~

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