

HOUSE BILL NO. 740

Introduced: 02/12/83

Referred to Committee on Taxation: 02/12/83
Hearing: 2/18/83

2nd Reading: 03/24/83, Do Pass
3rd Reading: 03/25/83, Do Pass

Transmitted to Senate: 3/25/83

Referred to Committee on Taxation: 03/26/83
Hearing: 4/5/83
Died in Senate Committee

1 House BILL NO. 740
 2 INTRODUCED BY H. J. J. J. J.

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE ADD BACK
 5 FOR CERTAIN PROPERTY OF A PORTION OF THE DEPRECIATION
 6 DEDUCTION PROVIDED FOR BY THE ACCELERATED COST RECOVERY
 7 SYSTEM AS ENACTED BY THE FEDERAL ECONOMIC RECOVERY TAX ACT
 8 OF 1981; AMENDING SECTIONS 15-30-111 AND 15-31-113, MCA; AND
 9 PROVIDING AN APPLICABILITY DATE."

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

12 Section 1. Section 15-30-111, MCA, is amended to read:
 13 "15-30-111. Adjusted gross income. (1) Adjusted gross
 14 income shall be the taxpayer's federal income tax adjusted
 15 gross income as defined in section 62 of the Internal
 16 Revenue Code of 1954 or as that section may be labeled or
 17 amended and in addition shall include the following:

18 (a) Interest received on obligations of another state
 19 or territory or county, municipality, district, or other
 20 political subdivision thereof;

21 (b) refunds received of federal income tax, to the
 22 extent the deduction of such tax resulted in a reduction of
 23 Montana income tax liability;

24 (c) part of the deduction for cost recovery allowable
 25 pursuant to section 168 of the Internal Revenue Code of

1 1954, determined by applying the following percentages to
 2 the deduction:

- 3 (i) 0% for 3-year property;
 4 (ii) 10% for 5-year property;
 5 (iii) 15% for 10-year property;
 6 (iv) 25% for 15-year utility property; and
 7 (v) 35% for 15-year real property.

8 (2) Notwithstanding the provisions of the federal
 9 Internal Revenue Code of 1954 as labeled or amended,
 10 adjusted gross income does not include the following which
 11 are exempt from taxation under this chapter:

12 (a) all interest income from obligations of the United
 13 States government, the state of Montana, county,
 14 municipality, district, or other political subdivision
 15 thereof;

16 (b) interest income earned by a taxpayer age 65 or
 17 older in a taxable year up to and including \$800 for a
 18 taxpayer filing a separate return and \$1,600 for each joint
 19 return;

20 (c) all benefits received under the Federal Employees'
 21 Retirement Act not in excess of \$3,600;

22 (d) all benefits, not in excess of \$360, received as
 23 an annuity, pension, or endowment under any private or
 24 corporate retirement plan or system;

25 (e) all benefits paid under the teachers' retirement

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1 law which are specified as exempt from taxation by 19-4-706;
 2 (f) all benefits paid under The Public Employees'
 3 Retirement System Act which are specified as exempt from
 4 taxation by 19-3-105;

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

8 (h) all Montana income tax refunds or credits thereof;

9 (i) all benefits paid under 19-11-602, 19-11-604, and
 10 19-11-605 to retired and disabled firefighters, their
 11 surviving spouses and orphans;

12 (j) all benefits paid by first- or second-class cities
 13 for the policemen's retirement system provided for by Title
 14 19, chapter 9;

15 (k) gain required to be recognized by a liquidating
 16 corporation under 15-31-113(1)(a)(ii).

17 (3) In the case of a shareholder of a corporation with
 18 respect to which the election provided for under subchapter
 19 S. of the Internal Revenue Code of 1954, as amended, is in
 20 effect but with respect to which the election provided for
 21 under 15-31-202, as amended, is not in effect, adjusted
 22 gross income does not include any part of the corporation's
 23 undistributed taxable income, net operating loss, capital
 24 gains or other gains, profits, or losses required to be
 25 included in the shareholder's federal income tax adjusted

1 gross income by reason of the said election under subchapter
 2 S. However, the shareholder's adjusted gross income shall
 3 include actual distributions from the corporation to the
 4 extent they would be treated as taxable dividends if the
 5 subchapter S. election were not in effect.

6 (4) A shareholder of a DISC that is exempt from the
 7 corporation license tax under 15-31-102(1)(1) shall include
 8 in his adjusted gross income the earnings and profits of the
 9 DISC in the same manner as provided by federal law (section
 10 995, Internal Revenue Code) for all periods for which the
 11 DISC election is effective."

12 Section 2. Section 15-31-113, MCA, is amended to read:

13 "15-31-113. Gross income and net income. (1) The term
 14 "gross income" means all income recognized in determining
 15 the corporation's gross income for federal income tax
 16 purposes and:

17 (a) including:

18 (i) interest exempt from federal income tax;

19 (ii) the portion of gain from a liquidation of the
 20 reporting corporation not recognized for federal corporate
 21 income tax purposes pursuant to sections 331 through 337 of
 22 the Internal Revenue Code (as those sections may be amended
 23 or renumbered) attributable to stockholders, either
 24 individual or corporate, not subject to Montana income or
 25 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

~~(iii) part of the deduction for cost recovery allowable pursuant to section 168 of the Internal Revenue Code of 1954, determined by applying the following percentages to the deduction:~~

~~(A) 0% for 3-year property;~~

~~(B) 10% for 5-year property;~~

~~(C) 15% for 10-year property;~~

~~(D) 25% for 15-year utility property; and~~

~~(E) 35% for 15-year real property; 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 deductions set forth in 15-31-114.

(3) No corporation is exempt from the corporation license tax unless specifically provided for under 15-31-101(3) or 15-31-102. Any corporation not subject to or liable for federal income tax but not exempt from the corporation license tax under 15-31-101(3) or 15-31-102 shall compute gross income for corporation license tax

purposes in the same manner as a corporation that is subject to or liable for federal income tax according to the provisions for determining gross income in the federal Internal Revenue Code in effect for the taxable year."

~~NEW SECTION.~~ Section 3. Applicability. This act applies to taxable years beginning after December 31, 1982.

-End-

STATE OF MONTANA

REQUEST NO. 411-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 15, 19 83, there is hereby submitted a Fiscal Note for House Bill 740 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 OF PROPOSED LEGISLATION:

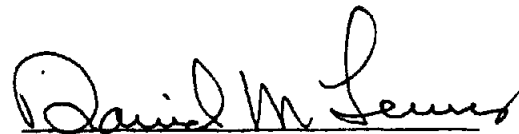
House Bill 740 requires the add back for certain property of a portion of the depreciation deduction provided for by the accelerated cost recovery system as enacted by the Federal Economic Recovery Tax Act of 1981; and provides an applicability date.

ASSUMPTIONS:

- 1) Revenue estimates under current law were obtained from the Office of Budget and Program Planning.
- 2) The add back applies to all ACRS depreciable property purchased since January 1, 1981.
- 3) All taxpayers elect the accelerated method, and none expense or use the slower straight line method.
- 4) An equal dollar amount of assets are purchased each year; a 5% inflation rate for asset acquisition is assumed.
- 5) The asset basis reduction (50% of the federal investment credit) was applied to depreciable property assumed purchased in CY 83 and CY 84.
- 6) Cost for forms and handling is \$11,000 per year.

FISCAL IMPACT:

	<u>FY84</u>	<u>FY85</u>
Individual Tax Collections		
Under Current Law	\$166.427M	\$175.459M
Under Proposed Law	<u>167.442M</u>	<u>176.723M</u>
Estimated Increase	\$ 1.015M	\$ 1.264M
Corporate License Tax Collections		
Under Current Law	\$ 41.904M	\$ 48.817M
Under Proposed Law	<u>46.359M</u>	<u>54.301M</u>
Estimated Increase	\$ 4.455M	\$ 5.484M

Continued


BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-19-83

TOTAL REVENUE		
Under Current Law	\$208.331M	\$224.276M
Under Proposed Law	<u>213.801M</u>	<u>231.024M</u>
Estimated Increase	\$ 5.470M	\$ 6.748M
Operating Expenses		
Under Current Law	\$ --	\$ --
Under Proposed Law	<u>.011M</u>	<u>.011M</u>
Estimated Increase	\$.011M	\$.011M
NET EFFECT		
Under Current Law	\$208.331M	\$224.276M
Under Proposed Law	<u>213.790M</u>	<u>231.013M</u>
Estimated Increase	\$ 5.459M	\$ 6.737M
General Fund		
Under Current Law	\$131.347M	\$141.552M
Under Proposed Law	<u>134.837M</u>	<u>145.860M</u>
Estimated Increase	\$ 3.490M	\$ 4.308M
School Foundation		
Under Current Law	\$ 51.308M	\$ 55.294M
Under Proposed Law	<u>52.675M</u>	<u>56.981M</u>
Estimated Increase	\$ 1.367M	\$ 1.687M
Sinking Fund		
Under Current Law	\$ 22.575M	\$ 24.329M
Under Proposed Law	<u>23.177M</u>	<u>25.072M</u>
Estimated Increase	\$.602M	\$.743M
Local		
Under Current Law	\$ 3.101M	\$ 3.101M
Under Proposed Law	<u>3.101M</u>	<u>3.101M</u>
Estimated Increase	\$ -0-	\$ -0-

Continued

HB 740

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

The tax offset on financial institutions was not considered, however the add back provisions should have some positive fiscal impact on local governments.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The Accelerated Cost Recovery System reduces taxable income for the life of an asset. The add back provision narrows the difference between tax collections under ACRS and what would have been collected under the ADR system. As more assets qualify for the ACRS deduction, the add back provisions should increase tax revenues. No quantitative estimates were derived.

ADDITIONAL COSTS:

Additional costs will be incurred if the depreciation add back is captured information. Programming, keypunch, and editing costs for individual returns will be \$25,000 in FY 84 and FY 85. Corporate license tax returns processing costs will be \$5,000 in FY 84 and FY 85.

Approved by committee
on Taxation

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19 or territory or county, municipality, district, or other
20 political subdivision thereof;
21 (b) refunds received of federal income tax, to the
22 extent the deduction of such tax resulted in a reduction of
23 Montana income tax liability;
24 (c) ~~THE DEFERRAL VALUE OF CERTAIN INCOME THAT IS NOT~~
25 ~~RECOGNIZED FOR FEDERAL TAX PURPOSES, WHICH VALUE SHALL BE AN~~

1 ~~AMOUNT EQUAL TO part of the deduction for cost recovery~~
2 ~~allowable pursuant to section 168 of the Internal Revenue~~
3 ~~Code of 1954, determined by applying the following~~
4 ~~percentages to the deduction, NONE OF THESE PERCENTAGES~~
5 ~~SHALL APPLY TO A FEDERAL DEDUCTION DETERMINED BY USE OF THE~~
6 ~~STRAIGHT-LINE METHOD:~~
7 ~~(i) 0% for 3-year property;~~
8 ~~(ii) 10% for 5-year property;~~
9 ~~(iii) 15% for 10-year property;~~
10 ~~(iv) 25% for 15-year utility property; and~~
11 ~~(v) 35% for 15-year real property.~~
12 (2) Notwithstanding the provisions of the federal
13 Internal Revenue Code of 1954 as labeled or amended,
14 adjusted gross income does not include the following which
15 are exempt from taxation under this chapter:
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17 States government, the state of Montana, county,
18 municipality, district, or other political subdivision
19 thereof;
20 (b) interest income earned by a taxpayer age 65 or
21 older in a taxable year up to and including \$800 for a
22 taxpayer filing a separate return and \$1,600 for each joint
23 return;
24 (c) all benefits received under the Federal Employees'
25 Retirement Act not in excess of \$3,600;

(d) all benefits, not in excess of \$360, received as an annuity, pension, or endowment under any private or corporate retirement plan or system;

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

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

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

(h) all Montana income tax refunds or credits thereof;

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

(j) all benefits paid by first- or second-class cities for the policemen's retirement system provided for by Title 19, chapter 9;

(k) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii).

(3) In the case of a shareholder of a corporation with respect to which the election provided for under subchapter S. of the Internal Revenue Code of 1954, as amended, is in effect but with respect to which the election provided for under 15-31-202, as amended, is not in effect, adjusted

gross income does not include any part of the corporation's undistributed taxable income, net operating loss, capital gains or other gains, profits, or losses required to be included in the shareholder's federal income tax adjusted gross income by reason of the said election under subchapter S. However, the shareholder's adjusted gross income shall include actual distributions from the corporation to the extent they would be treated as taxable dividends if the subchapter S. election were not in effect.

(4) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(i) shall include in his adjusted gross income the earnings and profits of the DISC in the same manner as provided by federal law (section 995, Internal Revenue Code) for all periods for which the DISC election is effective."

Section 2. 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

1 the Internal Revenue Code (as those sections may be amended
2 or renumbered) attributable to stockholders, either
3 individual or corporate, not subject to Montana income or
4 license tax under Title 15, chapter 30 or chapter 31, as
5 appropriate, on the gain passing through to the stockholders
6 pursuant to federal law; and

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11 ~~Revenue Code of 1954, determined by applying the following~~
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20 (b) excluding gain recognized for federal tax purposes
21 as a shareholder of a liquidating corporation pursuant to
22 sections 331 through 337 of the Internal Revenue Code (as
23 those sections may be amended or renumbered) when the gain
24 is required to be recognized by the liquidating corporation
25 pursuant to subsection (1)(a)(ii) of this section.

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

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

13 ~~NEW SECTION.~~ Section 3. Applicability. This act
14 applies to taxable years beginning after December 31, 1982.

-End-

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE ADD BACK FOR CERTAIN PROPERTY OF A PORTION OF THE DEPRECIATION DEDUCTION PROVIDED FOR BY THE ACCELERATED COST RECOVERY SYSTEM AS ENACTED BY THE FEDERAL ECONOMIC RECOVERY TAX ACT OF 1981; AMENDING SECTIONS 15-30-111 AND 15-31-113, MCA; AND PROVIDING AN APPLICABILITY DATE."

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(2) Notwithstanding the provisions of the federal Internal Revenue Code of 1954 as labeled or amended, adjusted gross income does not include the following which are exempt from taxation under this chapter:

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

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~~(111) THE DEFERRAL VALUE OF CERTAIN INCOME THAT IS NOT RECOGNIZED FOR FEDERAL INCOME TAX PURPOSES, WHICH VALUE SHALL BE AN AMOUNT EQUAL TO part of the deduction for cost recovery allowable pursuant to section 168 of the Internal Revenue Code of 1954, determined by applying the following percentages to the deduction. NONE OF THESE PERCENTAGES SHALL APPLY TO A FEDERAL DEDUCTION DETERMINED BY USE OF THE STRAIGHT LINE METHOD:~~

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