

HOUSE BILL NO. 860

Introduced: 02/15/83

Referred to Committee on Taxation: 02/15/83

Hearing: 3/8/83

Report: 03/09/83, Do Not Pass

Bill Killed: 03/10/83

1 House BILL NO. 860

2 INTRODUCED BY FAGG

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS  
5 GOVERNING THE ESTIMATED INCOME TAX; PROVIDING FOR QUARTERLY  
6 PAYMENTS; ELIMINATING THE FARMER, RANCHER, OR STOCKMAN  
7 EXCLUSION; PROVIDING PENALTIES; AMENDING SECTIONS 15-30-241  
8 AND 15-30-242, MCA; AND PROVIDING AN APPLICABILITY DATE."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 15-30-241, MCA, is amended to read:

12 "15-30-241. Declaration of estimated tax. (1) Every  
13 individual ~~except--farmers--ranchers--or--stockmen~~ shall, at  
14 the time prescribed in subsection (3) of this section, make  
15 a declaration of his estimated tax for the taxable year if  
16 his net income from sources other than wages, salaries,  
17 bonuses, or other emoluments can reasonably be expected to  
18 equal or exceed his net income from wages, salaries, bonuses  
19 or other emoluments, which are subject to withholding.

20 (2) In the declaration required under subsection (1)  
21 of this section, the individual shall state:

22 (a) the amount which he estimates as the amount of tax  
23 under 15-30-103 for the taxable year;

24 (b) the amount which he estimates will be withheld  
25 from wages paid by his employer if said individual is an

1 employee;

2 (c) the excess of the amount estimated under  
3 subsection (2)(a) over the amount estimated under subsection  
4 (2)(b), which excess for purposes of this section shall be  
5 considered the estimated tax for the taxable year;

6 (d) such other information as may be prescribed in  
7 rules promulgated by the department.

8 (3) The declaration required under subsection (1) of  
9 this section shall be filed with the department on or before  
10 April 15 of the taxable year, ~~except--that--if--the~~  
11 ~~requirements--of--subsection--(1)--of--this--section--are--first~~  
12 ~~met:~~

13 ~~(a)--after--April--1--and--before--October--1--of--the--taxable~~  
14 ~~year--the--declaration--shall--be--filed--on--or--before--October--15~~  
15 ~~of--the--taxable--year;~~

16 ~~(b)--after--October--1--of--the--taxable--year--the~~  
17 ~~declaration--shall--be--filed--on--or--before--February--15--of--the~~  
18 ~~succeeding--taxable--year. An individual first coming within~~  
19 ~~the provisions of subsection (1) after April 15 shall make~~  
20 ~~his declaration on the next succeeding date provided in~~  
21 ~~15-30-242(1) for payment of installments of estimated income~~  
22 ~~tax.~~

23 (4) An individual may make amendments of a declaration  
24 filed during the taxable year under subsection (3) of this  
25 section under rules prescribed by the department.

1        (5) If on or before February 15 of the succeeding  
2        taxable year the taxpayer files a return for the taxable  
3        year for which the declaration is required and pays in full  
4        the amount computed on his return as payable then under  
5        rates prescribed by the department:

6        (a) If the declaration is not required to be filed  
7        during the taxable year but is required to be filed on or  
8        before such February 15, such return shall for the purposes  
9        of this section be considered as such declaration and

10        (b) If the tax shown on the return is greater than the  
11        estimated tax shown in a declaration previously made or in  
12        the last amendments thereof, such return shall for the  
13        purposes of this section be considered as the amendment of  
14        the declaration permitted by subsection (4) of this section  
15        to be filed on or before such February 15.

16        (6) (5) The department shall promulgate rules governing  
17        reasonable extensions of time for filing declarations and  
18        paying the estimated tax except in the case of taxpayers who  
19        are abroad, and no such extension shall be for more than 6  
20        months.

21        (7) (6) If the taxpayer is unable to make his own  
22        declaration, the declaration shall be made by a duly  
23        authorized agent or by the guardian or other person charged  
24        with the care of the person or property of such taxpayer.

25        (8) Any individual who fails to file a declaration of

1        estimated tax as required by this section is not subject to  
2        the penalties set forth in 15-38-321.

3        Section 2. Section 15-30-242, MCA, is amended to read:

4        "15-30-242. Installment payments of estimated tax. (1)  
5        Estimated tax provided for in 15-30-241 shall be paid as  
6        follows:

7        (a) If the declaration is filed on or before April 15  
8        of the taxable year, the estimated tax shall be paid in two  
9        equal installments. The first installment shall be paid at  
10        the time of filing of the declaration and the second or last  
11        installment shall be paid on October 15 of the taxable year.

12        (b) If the declaration is filed after April 15 and not  
13        after October 15 of the taxable year and is not required by  
14        15-38-241(3) to be filed on or before April 15 of the  
15        taxable year, the estimated tax shall be paid at the time of  
16        filing of the declaration.

17        (c) If the declaration is filed after October 15 of  
18        the taxable year and is not required by 15-38-241(3) to be  
19        filed on or before October 15 of the taxable year, the  
20        estimated tax shall be paid in full at the time of filing of  
21        the declaration in equal installments. The first  
22        installment must be paid at the time of filing the  
23        declaration. Subsequent payments must be made on or before  
24        June 15 and September 15 of the taxable year and January 15  
25        of the succeeding taxable year. Individuals not required to

1 ~~file a declaration until after April 15, except those with~~  
 2 ~~extensions of time for filing, shall pay the estimated tax~~  
 3 ~~in equal installments beginning with the declaration date~~  
 4 ~~and including each succeeding payment date provided for in~~  
 5 ~~this subsection.~~

6 ~~†d†(2) If the declaration is filed after the time~~  
 7 ~~prescribed in 15-30-241, including cases where extensions of~~  
 8 ~~time have been granted, subsections--(1)(b)--and--(1)(c)--of~~  
 9 ~~this--section--shall--not--apply--and there shall be paid at the~~  
 10 ~~time of such filing all installments of estimated tax which~~  
 11 ~~would have been payable on or before such time if the~~  
 12 ~~declaration had been filed within the time prescribed in~~  
 13 ~~15-30-241(3) and the remaining installments shall be paid at~~  
 14 ~~the times at which and in the amounts in which they would~~  
 15 ~~have been payable if the declaration had been so filed.~~

16 ~~†2†(3) If any amendment of a declaration is filed~~  
 17 ~~after April 15 and before October 15 of the taxable year the~~  
 18 ~~time prescribed in 15-30-241(3), the remaining installment,~~  
 19 ~~if any, shall be ratably increased or decreased, as the case~~  
 20 ~~may be, to reflect the respective increase or decrease in~~  
 21 ~~the estimated tax by reason of such amendment. If any~~  
 22 ~~amendment is made after October 15 of the taxable year, any~~  
 23 ~~increase in the estimated tax by reason thereof shall be~~  
 24 ~~paid at the time of making such amendments.~~

25 ~~†3†(4) At the election of the individual, any~~

1 installment of the estimated tax may be paid prior to the  
 2 date prescribed for its payment.

3 ~~†4†(5) Payment of the estimated tax or any installment~~  
 4 ~~thereof shall be considered payment on account of the tax~~  
 5 ~~for the taxable year.~~

6 ~~†5†(6) The application of this section to taxable~~  
 7 ~~years of less than 12 months shall be as prescribed in the~~  
 8 ~~rules promulgated by the department.~~

9 ~~†6†(7) In the application of this section to taxpayers~~  
 10 ~~reporting income on a fiscal-year basis, there shall be~~  
 11 ~~substituted for the dates specified therein the months~~  
 12 ~~corresponding thereto.~~

13 ~~†7†(8) An individual who fails to pay an estimated tax~~  
 14 ~~as required by this section is not subject to the penalties~~  
 15 ~~additional tax set forth in 15-30-321 [section 3]."~~

16 ~~NEW SECTION. Section 3. Additions to tax for failure~~  
 17 ~~to pay estimated income tax. (1) An amount equal to 10% of~~  
 18 ~~any underpayment of amounts required by 15-30-241 and~~  
 19 ~~15-30-242 must be added to each installment of estimated~~  
 20 ~~tax.~~

21 ~~(2) For purposes of subsection (1), the underpayment~~  
 22 ~~is the difference between the amount of estimated tax paid~~  
 23 ~~and the amount that should have been paid, if the estimated~~  
 24 ~~tax paid was less than 80% of the correct amount of tax for~~  
 25 ~~the taxable year. Such underpayment must be divided equally~~

1 among the required installment payments to determine the  
2 amount of addition for each installment.

3 (3) The 10% addition to tax for underpayment must be  
4 computed from the payment dates provided for in 15-30-242  
5 until the amount is paid or the tax return is filed and the  
6 tax liability satisfied. Any overpayment is first a payment  
7 of prior underpayments, and the excess is then applied to  
8 future installments.

9 (4) There may not be an addition to tax for  
10 underpayment if all estimated payments for the tax year,  
11 paid by the due dates as provided in 15-30-242, equal or  
12 exceed the lesser amount due under any of the following:

13 (a) the tax from the individual's previous taxable  
14 year;

15 (b) the tax based on income from the previous taxable  
16 year, with current tax rates and exemptions applied;

17 (c) 80% of the total tax for the tax year determined  
18 by annualizing income received during the taxable year prior  
19 to the date for filing the declaration required under  
20 15-30-241.

21 (5) Penalties and interest imposed under 15-30-142,  
22 15-30-321, and 15-30-323 do not apply to underpayment of  
23 estimated tax.

24 NEW SECTION. Section 4. Codification instruction.  
25 Section 3 is intended to be codified as an integral part of

1 Title 15, chapter 30, and the provisions of Title 15,  
2 chapter 30, apply to section 3.

3 NEW SECTION. Section 5. Applicability. This act  
4 applies to taxable years beginning after December 31, 1983.

-End-

STATE OF MONTANA

REQUEST NO. 477-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 18, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 860 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.

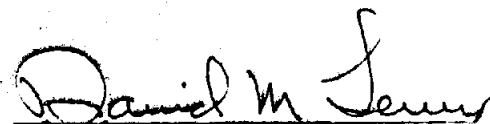
DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 860 revises the laws governing the estimated income tax; provides for quarterly payments; eliminates the farmer, rancher, or stockman exclusion; provides penalties; and provides an applicability date.

FISCAL IMPACT:

The proposed law would not result in increased income tax liabilities; however, it would accelerate the payment of taxes on income not subject to withholding, which should result in increased investment earnings to the State of Montana. Assuming that \$25 million in currently unpaid estimated taxes would be received an average 6 months earlier, and an 8% interest rate, this could result in an increase in investment earnings of \$1 million annually. It is not possible to provide a reliable estimate of the penalty amounts which could be anticipated as a result of this proposal.

FISCAL NOTE 15:DD/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-22-83