HOUSE BILL NO. 913

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Died in Committee

House BILL NO. 913

INTRODUCED BY Harper Metcalf Ream Hart Hammond Peck Kemmis

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A REPLACEMENT INCOME TAX FOR PART OF THE PROPERTY TAX NOW LEVIED ON HABITABLE PROPERTY; PROVIDING A METHOD FOR ADMINISTERING THE TAX; PROVIDING A PENALTY; AMENDING SECTION 15-30-121, MCA; AND PROVIDING EFFECTIVE DATES."

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

NEW SECTION. Section 1. Definitions. For the purposes of [sections 1 through 11], the following definitions apply:

(1) "Countywide mill levy" means a mill levy that is imposed on the taxable value of all property within the county.

(2) "Department" means the department of revenue.

(3) (a) Habitable property means:

(i) all buildings, including condominiums, apartments, rest homes, and mobile homes, intended for permanent human habitation; and

(ii) buildings, such as garages or storage sheds, normally associated with residences.

(b) "Habitable property" does not include:

(i) mobile homes, motor homes, trailers, campers, or other personal property held as stock-in-trade by a

distributor or dealer or used primarily for recreational purposes;

(ii) land; or

(iii) hotels, motels, or other similar property occupied principally by nonresidents, tourists, or other transients.

(4) "Resident" means resident as defined in 15-30-101, except that whenever "state" appears in that section, it means "county".

(5) "Taxable income" means taxable income as defined in 15-30-111.

(6) "Wages" means wages as defined in 15-30-201.

NEW SECTION. Section 2. County governing body — authority to exempt habitable property from certain mill levies — how. (1) As part of its annual budgeting process, the governing body of a county may, by written resolution and after a public hearing to consider the issue, exempt the taxable value of habitable property from part or all of the countywide mill levies in that county for the ensuing taxable year.

(2) If a governing body of a county adopts a resolution in accordance with subsection (1), it must certify to the department, on or before September 1 immediately following such adoption:

(a) that the county governing body elects to exempt

INTRODUCED BILL

HB 913

habitable property; and

(b) the total number of countywide mills that will not be levied on habitable property within the county during the ensuing taxable year.

(3) After adoption of a resolution under subsection (1), all general obligation bonds continue to be an obligation of all property pledged to their redemption.

NEW SECTION. Section 3. Replacement income tax imposed — how calculated. (1) Whenever a county governing body exempts habitable property from countywide mill levies in accordance with [section 2], there is imposed a replacement income tax on the individual income of residents of the county, the proceeds of which must be equal to the property tax revenue loss.

(2) The rate of replacement income tax for each resident taxpayer must be based on his tax bracket under 15-30-103. The department shall determine the percentage rate of tax for each such bracket, according to the progression of percentage rates provided for in 15-30-103, necessary to provide the total proceeds for the county equal to the property tax revenue loss.

NEW SECTION. Section 4. Administration of replacement income tax -- role of department. (1) The replacement income tax must be administered by the department under rules adopted by the department. The replacement income tax must

be collected with the state individual income tax. The laws and rules for the administration of the state individual income tax apply to the replacement income tax except when inconsistent with [sections 1 through 12] or when, in the judgment of the department, the laws or rules would be inconsistent or not feasible for proper administration.

(2) The department may deduct from the money collected under [section 3] an amount not exceeding 1% to cover necessary costs incurred by the department in administering the replacement income tax.

NEW SECTION. Section 5. Duties of department. The department shall:

(1) establish a central computer system to keep records necessary to administer the replacement income tax;

(2) keep records showing the taxable income of each taxpayer for each county in which the taxpayer is a resident;

(3) establish and maintain a list of all habitable property in the state;

(4) continue to assess and keep records of the value of all habitable property;

(5) determine questions of residency and other issues arising from the administration of the replacement income tax;

(6) revise state income tax forms or prepare

additional forms as necessary to secure information necessary to administer the replacement income tax;

(7) audit replacement income tax returns as necessary;

(8) keep taxpayers' replacement income tax records confidential as provided in 15-30-303;

(9) provide forms and instructions to local officials as necessary;

(10) make replacement income tax refunds to taxpayers pursuant to [section 11]; and

(11) perform other duties as specifically provided in [sections 1 through 12].

NEW SECTION. Section 6. Penalty and interest. (1) All replacement income taxes not paid when due are delinquent, and interest of 2/3 of 1% per month must be collected on the unpaid balance. In addition, a penalty of 5% of the delinquent tax must be collected.

(2) All interest and penalties collected by the department must be placed in the state general fund.

NEW SECTION. Section 7. Collection of delinquent taxes. The department may use the procedure provided in Title 15, chapter 1, part 7, for the collection of delinquent replacement income taxes.

NEW SECTION. Section 8. Application for revision -- appeal. (1) An application for revision of replacement income tax liability may be filed with the department by a

taxpayer within 5 years after the original due date of the return.

(2) If the taxpayer is not satisfied with the action taken by the department on his application for revision, he may appeal to the state tax appeal board, which may grant all or part of the revisions sought.

NEW SECTION. Section 9. Department to estimate total adjusted gross income in each county. (1) On the second Monday of July, 1984, and every following year, the department shall calculate an official estimate of the total taxable income of the residents residing in each county. The department shall furnish the estimates to the governing body of each county.

(2) In formulating these estimates, the department shall consider the taxable income of the previous year. It may consider additional information as it considers necessary.

NEW SECTION. Section 10. Landlord to notify tenant of property taxes no longer collected. During any year in which a county governing body elects to exempt property from taxation pursuant to [section 2], each owner of residential rental property shall send to each of his tenants the following notice: "We are not required to pay all of the regular property taxes on the rental unit that you occupy during calendar year ____ (state the year). Because of this, we (are) (are not) considering a reduction in your rent during the calendar year." The owner must indicate his intention regarding the rent on each notice.

NEW SECTION. Section 11. Disbursement of replacement income tax to counties. (1) All replacement income taxes collected by the department under the provisions of [sections 1 through 9] must be distributed by the department to the county of origin after the following deductions are made:

(a) the amount for refunds;

(b) a reserve for expected or anticipated refunds; and

(c) the costs of administering the replacement income tax.

(2) In May and November of each year, the department shall send to each county treasurer in each county that has exempted taxable value for that year pursuant to [section 2] the replacement income tax collected for that year from taxpayers in that county.

Section 12. Section 15-30-121, MCA, is amended to read:

"15-30-121. Deductions allowed in computing net income. In computing net income, there are allowed as deductions:

(1) the items referred to in sections 161 and 211 of the Internal Revenue Code of 1954, or as sections 161 and

211 shall be labeled or amended, subject to the following exceptions which are not deductible:

(a) items provided for in 15-30-123;

(b) state income tax paid;

(2) replacement income tax paid pursuant to [section 3];

~~(2)~~(3) federal income tax paid within the taxable year;

~~(3)~~(4) child and dependent care expenses determined in accordance with the provisions of section 214 of the Internal Revenue Code of 1954 that were in effect for the taxable year that began January 1, 1974. However, the limitation set forth in section 214(e)(4) of the Internal Revenue Code of 1954 as that section was in effect for the taxable year that began January 1, 1974, applies only to payments made to a child of the taxpayer who is under 19 years of age at the close of the taxable year and to payments made to an individual with respect to whom a deduction is allowable under 15-30-112(5) to the taxpayer or the taxpayer's spouse.

~~(4)~~(5) in the case of an individual, political contributions determined in accordance with the provisions of section 218(a) and (b) of the Internal Revenue Code that were in effect for the taxable year ended December 31, 1978;

~~(5)~~(6) that portion of expenses for organic fertilizer allowed as a deduction under 15-32-303 which was not otherwise deducted in computing taxable income;

~~(6)~~(7) light vehicle license fees, as provided by 61-3-532, paid during the taxable year."

NEW SECTION. Section 13. Effective dates. (1) Section 1 and sections 4 through 13 are effective on passage and approval.

(2) Sections 2 and 3 are effective January 1, 1985.

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