

SENATE BILL NO. 73

INTRODUCED BY B. BROWN

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

IN THE SENATE

January 6, 1983	Introduced and referred to Committee on Taxation.
January 13, 1983	Committee recommend bill do pass as amended. Report adopted.
January 14, 1983	Bill printed and placed on members' desks.
January 15, 1983	Second reading, do pass.
January 17, 1983	Considered correctly engrossed.
January 18, 1983	Third reading, passed. Ayes, 47; Noes, 0. Transmitted to House.

IN THE HOUSE

January 19, 1983	Introduced and referred to Committee on Taxation.
March 5, 1983	Committee recommend bill be concurred in. Report adopted.
March 7, 1983	Second reading, concurred in.
March 8, 1983	Third reading, concurred in.

IN THE SENATE

March 9, 1983	Returned to Senate. Sent to enrolling. Reported correctly enrolled.
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 5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR INCOME
 6 TAX WITHHOLDING ON WAGES PAID TO MEMBERS OF THE RESERVE
 7 ARMED FORCES; AMENDING SECTIONS 15-30-201 AND 15-30-202,
 8 MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY
 9 DATE."

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

12 Section 1. Section 15-30-201, MCA, is amended to read:

13 "15-30-201. Definitions. When used in 15-30-201
 14 through 15-30-209, the following definitions apply:

15 (1) "Agricultural labor" includes all services
 16 performed on a farm or ranch in connection with cultivating
 17 the soil or in connection with raising or harvesting any
 18 agricultural or horticultural commodity, including the
 19 raising, shearing, feeding, caring for, training, and
 20 management of livestock, bees, poultry, and fur-bearing
 21 animals and wildlife.

22 (2) "Employee" includes an officer, employee, or
 23 elected public official of the United States, the state of
 24 Montana, or any political subdivision thereof or any agency
 25 or instrumentality of any one or more of the foregoing. The

1 term "employee" also includes an officer of a corporation.

2 (3) "Employer" means the person for whom an individual
 3 performs or performed any service, of whatever nature, as
 4 the employee of such person; except that if the person for
 5 whom the individual performs or performed the service does
 6 not have control of the payment of the wages for such
 7 service, the term "employer" means the person having control
 8 of the payment of such wages.

9 (4) "Wages" means all remuneration (other than fees
 10 paid to a public official) for services performed by an
 11 employee for his employer, including the cash value of all
 12 remuneration paid in any medium other than cash, except that
 13 such term shall not include remuneration paid:

14 (a) for active service as a member of the regular
 15 armed forces of the United States, as defined in 10 U.S.C.
 16 section 101(33);

17 (b) for agricultural labor as defined in subsection
 18 (1);

19 (c) for domestic service in a private home, a local
 20 college club, or local chapter of a college fraternity or
 21 sorority;

22 (d) for casual labor not in the course of the
 23 employer's trade or business performed in any calendar
 24 quarter by an employee unless the cash remuneration paid for
 25 such service is \$50 or more and such service is performed by

INTRODUCED BILL

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1 an individual who is regularly employed by such employer to
 2 perform such service. For purposes of this subsection
 3 (4)(d), an individual is considered to be regularly employed
 4 by an employer during a calendar quarter only if:

5 (i) on each of some 24 days during such quarter such
 6 individual performs for such employer for some portion of
 7 the day service not in the course of the employer's trade or
 8 business;

9 (ii) such individual was regularly employed (as
 10 determined under subsection (4)(d)(i)) by such employer in
 11 the performance of such service during the preceding
 12 calendar quarter;

13 (e) for services by a citizen or resident of the
 14 United States for a foreign government or an international
 15 organization;

16 (f) for services performed by a duly ordained,
 17 commissioned, or licensed minister of a church in the
 18 exercise of his ministry or by a member of a religious order
 19 in the exercise of duties required by such order;

20 (g) (i) for services performed by an individual under
 21 the age of 18 in the delivery or distribution of newspapers
 22 or shopping news, not including delivery or distribution to
 23 any point for subsequent delivery or distribution; or

24 (ii) for services performed by an individual in and at
 25 the time of the sale of newspapers or magazines to ultimate

1 consumers under an arrangement under which the newspapers or
 2 magazines are to be sold by him at a fixed price, his
 3 compensation being based on the retention of the excess of
 4 such price over the amount at which the newspapers or
 5 magazines are charged to him, whether or not he is
 6 guaranteed a minimum amount of compensation for such service
 7 or is entitled to be credited with the unsold newspapers or
 8 magazines turned back;

9 (h) for services not in the course of the employer's
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 12 meals and such services are received by the employee at the
 13 request of and for the convenience of the employer;

14 (i) to or for an employee as a payment for or a
 15 contribution toward the cost of any group plan or program
 16 which benefits the employee, including but not limited to
 17 life insurance, hospitalization insurance for the employee
 18 or dependents, and employees' club activities;

19 (j) for national guard and reserve training as
 20 provided in 5 U.S.C. section 5517(d)."

21 Section 2. Section 15-30-202, MCA, is amended to read:
 22 "15-30-202. Withholding of tax from wages. Every
 23 employer making payment of wages shall deduct and withhold
 24 upon such wages a tax determined in accordance with the
 25 withholding tax tables which shall be prepared and issued by

1 the department. Persons on active service as members of the
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3 U.S.C. section 101(32), and members of the national guard
4 and reserves participating in training as provided in 5
5 U.S.C. section 5517(d) shall not be subject to the
6 provisions of this section."

7 NEW SECTION. Section 3. Effective date --
8 applicability. This act is effective on July 1, 1983, and
9 applies to wages paid after June 30, 1983.

-End-

Approved by Committee
on Taxation
As Amended

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A BILL FOR AN ACT ENTITLED: ~~"AN ACT PROVIDING FOR~~
CLARIFYING THE INCOME TAX WITHHOLDING ON STATUS OF WAGES
PAID TO MEMBERS OF THE RESERVE ARMED FORCES; AMENDING
SECTIONS 15-30-201 AND 15-30-202, MCA; AND PROVIDING AN
EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-30-201, MCA, is amended to read:

"15-30-201. Definitions. When used in 15-30-201
through 15-30-209, the following definitions apply:

(1) "Agricultural labor" includes all services
performed on a farm or ranch in connection with cultivating
the soil or in connection with raising or harvesting any
agricultural or horticultural commodity, including the
raising, shearing, feeding, caring for, training, and
management of livestock, bees, poultry, and fur-bearing
animals and wildlife.

(2) "Employee" includes an officer, employee, or
elected public official of the United States, the state of
Montana, or any political subdivision thereof or any agency
or instrumentality of any one or more of the foregoing. The

term "employee" also includes an officer of a corporation.

(3) "Employer" means the person for whom an individual
performs or performed any service, of whatever nature, as
the employee of such person; except that if the person for
whom the individual performs or performed the service does
not have control of the payment of the wages for such
service, the term "employer" means the person having control
of the payment of such wages.

(4) "Wages" means all remuneration (other than fees
paid to a public official) for services performed by an
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remuneration paid in any medium other than cash, except that
such term shall not include remuneration paid:

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section 101(33);

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(1);

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college club, or local chapter of a college fraternity or
sorority;

(d) for casual labor not in the course of the
employer's trade or business performed in any calendar
quarter by an employee unless the cash remuneration paid for
such service is \$50 or more and such service is performed by

1 an individual who is regularly employed by such employer to
2 perform such service. For purposes of this subsection
3 (4)(d), an individual is considered to be regularly employed
4 by an employer during a calendar quarter only if:

5 (i) on each of some 24 days during such quarter such
6 individual performs for such employer for some portion of
7 the day service not in the course of the employer's trade or
8 business;

9 (ii) such individual was regularly employed (as
10 determined under subsection (4)(d)(i)) by such employer in
11 the performance of such service during the preceding
12 calendar quarter;

13 (e) for services by a citizen or resident of the
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3 compensation being based on the retention of the excess of
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THIRD READING

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