SENATE BILL NO. 242

INTRODUCED BY GAGE, TOWE

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

IN THE SENATE

January 21, 1983	Introduced and referred to Committee on Taxation.
February 17, 1983	Committee recommend bill do pass as amended. Report adopted.
February 18, 1983	Bill printed and placed on members' desks.
February 19, 1983	Second reading, do pass.
February 21, 1983	Correctly engrossed.
February 22, 1983	Third reading, passed. Ayes, 49; Noes, 0. Transmitted to House.

IN THE HOUSE

February 28, 1983	Introduced and referred to Committee on Taxation.
March 11, 1983	Committee recommend bill be concurred in. Report adopted.
March 14, 1983	Second reading, concurred in as amended.
March 15, 1983	Third reading, concurred in.

IN THE SENATE

March 16, 1983	Returned to Senate with amendments.
March 17, 1983	Second reading, amendments concurred in.
March 18, 1983	Third reading, amendments concurred in.
	Sent to enrolling.
	Reported correctly enrolled.

Senate BILL NO. 242

INTRODUCED BY

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY LAWS PERTAINING TO INCOME TAXATION OF ESTATES, PROPERTY HELD IN TRUST, AND BENEFICIARIES OF ESTATES OR TRUSTS; AMENDING SECTION 15-30-135, MCA; PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-30-135, MCA, is amended to read:

"15-30-135. Tax on beneficiaries or fiduciaries of estates or trusts. (1) A tax shall be imposed upon either the fiduciaries or the beneficiaries of estates and trusts as hereinafter provided, except to the extent such estates and trusts shall be held for educational, charitable, or religious purposes, which tax shall be levied, collected, and paid annually with respect to the income of estates or of any kind of property held in trust, including:

(a) income received by estates of deceased persons during the period of administration or settlement of the estate;

(b) income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent

interests;

(c) income held for future distribution under the terms of the will or trust; and

(d) income which is to be distributed to the beneficiaries periodically, whether or not at regular intervals, and the income collected by a guardian of an infant, to be held or distributed as the court may direct~~;~~ ~~and~~.

~~(e) income of an estate during the period of administration or settlement permitted by subsection (3) of this section to be deducted from the net income, the tax with reference to which is to be paid by the fiduciary.~~

(2) The fiduciary shall be responsible for making the return of income for the estate or trust for which he acts, whether the fiduciary or the beneficiaries ~~be~~ are taxable with reference to the income of such estate or trust. ~~The net income of an estate or trust shall be computed in the same manner and on the same basis as provided in this chapter for individual taxpayers, except that there shall also be allowed as a deduction any part of the gross income which, pursuant to the terms of the will or deed creating the trust, is paid to or held for the United States or any state, territory, or any political subdivision thereof or the District of Columbia.~~ In cases under subsections (a) and (d) ~~and (e)~~ of subsection (1) ~~of this section~~, the fiduciary

INTRODUCED BILL

SB-242

shall include in the return a statement of each beneficiary's distributive share of ~~such~~ net income, whether or not distributed before the close of the taxable year for which the return is made.

(3) In cases under subsections (a), (b), and (c) of subsection (1) ~~of this section,~~ the tax shall be imposed upon the fiduciary of the estate or trust with respect to the net income of the estate or trust and shall be paid by the fiduciary.~~, except that in determining the net income of the estate of any deceased person during the period of administration or settlement, there may be deducted the amount of any income properly paid or credited to any legatee, heir, or other beneficiary. In such cases, the fiduciary of the estate or trust shall be allowed the same exemptions as are allowed to single persons under 15-30-112 and the fiduciary of any estate or trust created by a person not a resident or of an estate of a person not a resident shall be subject to a tax only to the extent to which individuals other than residents are liable under 15-30-131.~~

~~(4) (a) There shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year which is to be distributed currently by the fiduciary to the beneficiaries and the amount of the income collected by a guardian of an infant, which is to be held or~~

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~~distributed as the court may direct, but the amount so allowed as a deduction shall be included in computing the net income of the beneficiaries whether distributed to them or not. Any amount allowed as a deduction under this subsection shall not be allowed as a deduction under subsection (4)(b) of this section in the same or any succeeding taxable year.~~

~~(b) In the case of income received by estates of deceased persons during the period of administration or settlement of the estate and in the case of income which, in the discretion of the fiduciary, may be either distributed to the beneficiary or accumulated, there shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year which is properly paid or credited during such year to any legatee, heir, or beneficiary, but the amount so allowed as a deduction shall be included in computing the net income of the legatee, heir, or beneficiary.~~

~~(c)~~ If the taxpayer's net income for ~~such~~ the taxable year of the estate or trust is computed upon the basis of a period different from that upon the basis of which the net income of the estate or trust is computed, then his distributive share of the net income of the estate or trust for any accounting period of such estate or trust ending

within the fiscal or calendar year shall be computed upon the basis on which such beneficiary's net income is computed. In such cases, a beneficiary not a resident shall be taxable with respect to his income derived through such estate or trust only to the extent provided in 15-30-131 for individuals other than residents.

~~(5)~~(4) The fiduciary of a trust created by an employer as a part of a stock bonus, pension, or profit-sharing plan for the exclusive benefit of some or all of his employees, to which contributions are made by such employer or employees, or both, for the purpose of distributing to such employees the earnings and principal of the fund accumulated by the trust in accordance with such plan, shall not be taxable under this section, but any amount contributed to such fund by the employer and all earnings of such fund shall be included in computing the income of the distributee in the year in which distributed or made available to him.

~~(6)~~(5) Where any part of the income of a trust other than a testamentary trust is or may be applied to the payment of premiums upon policies of insurance on the life of the grantor (except policies of insurance irrevocably payable for the purposes and in the manner specified relating to the so-called "charitable contribution" deduction) or to the payment of premiums upon policies of life insurance under which the grantor is the beneficiary,

such part of the income of the trust shall be included in computing the net income of the grantor."

NEW SECTION. Section 2. Computation of net income of estates or trusts. (1) Except as otherwise provided in this chapter, "gross income" of estates or trusts means all income from whatever source derived in the taxable year, including but not limited to the following items:

(a) dividends;

(b) interest received or accrued, including interest received on obligations of another state or territory or a county, municipality, district, or other political subdivision thereof, but excluding interest income from obligations of:

(i) the United States government or the state of Montana;

(ii) a school district; or

(iii) a county, municipality, district, or other political subdivision of the state;

(c) income from partnerships and other fiduciaries;

(d) gross rents and royalties;

(e) gain from sale or exchange of property, including those gains that are excluded from gross income for federal fiduciary income tax purposes by section 641(c) of the Internal Revenue Code of 1954, as amended;

(f) gross profit from trade or business; and

(g) refunds recovered on federal income tax, to the extent the deduction of such tax resulted in a reduction of Montana income tax liability.

(2) In computing net income, there are allowed as deductions:

(a) interest expenses deductible for federal tax purposes according to section 163 of the Internal Revenue Code of 1954, as amended;

(b) taxes paid or accrued within the taxable year, including but not limited to federal income tax, but excluding Montana income tax;

(c) that fiduciary's portion of depreciation or depletion which is deductible for federal tax purposes according to sections 167, 611, and 642 of the Internal Revenue Code of 1954, as amended;

(d) charitable contributions that are deductible for federal tax purposes according to section 642(c) of the Internal Revenue Code of 1954, as amended;

(e) administrative expenses claimed for federal income tax purposes, according to sections 212 and 642(g) of the Internal Revenue Code of 1954, as amended, if such expenses were not claimed as a deduction in the determination of Montana inheritance tax;

(f) losses from fire, storm, shipwreck, or other casualty or from theft, to the extent not compensated for by

insurance or otherwise, that are deductible for federal tax purposes according to section 165 of the Internal Revenue Code of 1954, as amended;

(g) net operating loss deductions allowed for federal income tax under section 642(d) of the Internal Revenue Code of 1954, as amended, except estates may not claim losses that are deductible on the decedent's final return;

(h) all benefits received as federal employees' retirement not in excess of $3,600;

(i) all benefits paid under the Montana teachers' retirement system that are specified as exempt from taxation by 19-4-706;

(j) all benefits paid under the Montana Public Employees' Retirement System Act that are specified as exempt from taxation by 19-3-105;

(k) all benefits paid under the Montana highway patrolmen's retirement system that are specified as exempt from taxation by 19-6-705;

(l) Montana income tax refunds or credits thereof;

(m) all benefits paid under 19-11-602, 19-11-604, and 19-11-605 to retired and disabled firemen or their surviving spouses or children;

(n) all benefits paid by first- or second-class cities for the Montana police officers' retirement system provided for by the metropolitan police law;

(o) all benefits not in excess of $360 received as an annuity, pension, or endowment under private or corporate retirement plans or systems.

(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 is not in effect, net 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 net income by reason of the election under subchapter S. However, the shareholder's net income shall include actual distribution from the corporation to the extent it would be treated as taxable dividends if the subchapter S. election were not in effect.

NEW SECTION. Section 3. Adjustments to income of estates and trusts. (1) The following additional deductions shall be allowed in deriving taxable income of estates and trusts:

(a) any amount of income for the taxable year currently required to be distributed to beneficiaries for such year;

(b) any other amounts required to be distributed, paid, or credited for the taxable year;

(c) the amount of 60% of the excess of the net long-term capital gain over the net short-term capital loss for the taxable year.

(2) The following exemptions are allowed for estates and trusts:

(a) $600 for an estate;

(b) $300 for a simple trust; and

(c) $100 for a complex trust.

(3) The amount of tax must be determined from taxable income of an estate or trust in the same manner as the tax on taxable income of individuals, by applying the rates contained in 15-30-103. Credits allowed individuals under Title 15, chapter 30, also apply to estates and trusts when applicable.

(4) Remedies available for the administration, enforcement, and collection of individual income taxes also apply to estates and trusts.

NEW SECTION. Section 4. Effective date -- applicability. This act is effective on passage and approval and is applicable to taxable years beginning after December 31, 1982.

NEW SECTION. Section 5. Codification instruction. Sections 2 and 3 are intended to be codified as an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, apply to sections 2 and 3.

-End-

Approved by committee
on Taxation

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SECOND READING

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(f) losses from fire, storm, shipwreck, or other casualty or from theft, to the extent not compensated for by

insurance or otherwise, that are deductible for federal tax purposes according to section 165 of the Internal Revenue Code of 1954, as amended;

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(c) the amount of 60% of the excess of the net long-term capital gain over the net short-term capital loss for the taxable year.

(2) ~~The following exemptions are allowed for estates and trusts:~~

~~(a) $600 for an estate;~~

~~(b) $300 for a simple trust; and~~

~~(c) $100 for a complex trust.~~ THE EXEMPTION ALLOWED FOR ESTATES AND TRUSTS IS THAT EXEMPTION PROVIDED IN 15-30-112(2)(A) AND 15-30-112(8).

(3) The amount of tax must be determined from taxable income of an estate or trust in the same manner as the tax on taxable income of individuals, by applying the rates contained in 15-30-103. Credits allowed individuals under Title 15, chapter 30, also apply to estates and trusts when applicable.

(4) Remedies available for the administration, enforcement, and collection of individual income taxes also apply to estates and trusts.

NEW SECTION. Section 4. Effective date -- applicability. This act is effective on passage and approval and is applicable to taxable years beginning after December 31, 1982.

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THIRD READING

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(f) losses from fire, storm, shipwreck, or other casualty or from theft, to the extent not compensated for by

insurance or otherwise, that are deductible for federal tax purposes according to section 165 of the Internal Revenue Code of 1954, as amended;

(g) net operating loss deductions allowed for federal income tax under section 642(d) of the Internal Revenue Code of 1954, as amended, except estates may not claim losses that are deductible on the decedent's final return;

(h) all benefits received as federal employees' retirement not in excess of $3,600;

(i) all benefits paid under the Montana teachers' retirement system that are specified as exempt from taxation by 19-4-706;

(j) all benefits paid under the Montana Public Employees' Retirement System Act that are specified as exempt from taxation by 19-3-105;

(k) all benefits paid under the Montana highway patrolmen's retirement system that are specified as exempt from taxation by 19-6-705;

(l) Montana income tax refunds or credits thereof;

(m) all benefits paid under 19-11-602, 19-11-604, and 19-11-605 to retired and disabled firemen or their surviving spouses or children;

(n) all benefits paid by first- or second-class cities for the Montana police officers' retirement system provided for by the metropolitan police law;

(c) all benefits not in excess of $360 received as an annuity, pension, or endowment under private or corporate retirement plans or systems.

(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 is not in effect, net 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 net income by reason of the election under subchapter S. However, the shareholder's net income shall include actual distribution from the corporation to the extent it would be treated as taxable dividends if the subchapter S. election were not in effect.

NEW SECTION. Section 3. Adjustments to income of estates and trusts. (1) The following additional deductions shall be allowed in deriving taxable income of estates and trusts:

(a) any amount of income for the taxable year currently required to be distributed to beneficiaries for such year;

(b) any other amounts required to be distributed, paid, or credited for the taxable year;

(c) the amount of 60% of the excess of the net long-term capital gain over the net short-term capital loss for the taxable year.

(2) ~~The--following--exemptions-are-allowed-for-estates and-trusts:~~

~~(a)--$600-for-an-estate;~~

~~(b)--$300-for-a-simple-trust;-and~~

~~(c)--$100-for-a-complex-trust.~~ THE EXEMPTION ALLOWED FOR ESTATES AND TRUSTS IS THAT EXEMPTION PROVIDED IN 15-30-112(2)(A) AND 15-30-112(8).

(3) The amount of tax must be determined from taxable income of an estate or trust in the same manner as the tax on taxable income of individuals, by applying the rates contained in 15-30-103. Credits allowed individuals under Title 15, chapter 30, also apply to estates and trusts when applicable.

(4) Remedies available for the administration, enforcement, and collection of individual income taxes also apply to estates and trusts.

NEW SECTION. Section 4. Effective date -- applicability. This act is effective on passage and approval and is applicable to taxable years beginning after December 31, 1982.

NEW SECTION. Section 5. Codification instruction. Sections 2 and 3 are intended to be codified as an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, apply to sections 2 and 3.

-End-

HOUSE OF REPRESENTATIVES

March 14, 1983
Committee of the Whole Amendments to Senate Bill 242

1. Page 9, line 24.
Folliwing: "amounts"
Insert: "properly paid or credited or"

2. Page 9, line 24.
Following: "distributed"
Strike: ","

3. Page 9, line 25.
Strike: "paid, or credited"

SENATE BILL NO. 242

INTRODUCED BY GAGE, TOWE

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY LAWS PERTAINING TO INCOME TAXATION OF ESTATES, PROPERTY HELD IN TRUST, AND BENEFICIARIES OF ESTATES OR TRUSTS; AMENDING SECTION 15-30-135, MCA; PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-30-135, MCA, is amended to read:

"15-30-135. Tax on beneficiaries or fiduciaries of estates or trusts. (1) A tax shall be imposed upon either the fiduciaries or the beneficiaries of estates and trusts as hereinafter provided, except to the extent such estates and trusts shall be held for educational, charitable, or religious purposes, which tax shall be levied, collected, and paid annually with respect to the income of estates or of any kind of property held in trust, including:

(a) income received by estates of deceased persons during the period of administration or settlement of the estate;

(b) income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests;

(c) income held for future distribution under the terms of the will or trust; and

(d) income which is to be distributed to the beneficiaries periodically, whether or not at regular intervals, and the income collected by a guardian of an infant, to be held or distributed as the court may direct~~;~~ ~~and~~.

~~(e)--income---of---an---estate--during--the--period--of administration-or-settlement-permitted-by-subsection-(3)--of this--section--to--be--deducted-from-the-net-income,-the-tax with-reference-to-which-is-to-be-paid-by-the-fiduciary.~~

(2) The fiduciary shall be responsible for making the return of income for the estate or trust for which he acts, whether the fiduciary or the beneficiaries ~~be~~ are taxable with reference to the income of such estate or trust. ~~The net-income-of-an-estate-or-trust-shall-be--computed--in--the same--manner--and--on--the--same--basis--as-provided-in-this chapter-for-individual-taxpayers,-except--that--there--shall also--be-allowed-as-a-deduction-any-part-of-the-gross-income which,-pursuant-to-the-terms-of-the-will--or--deed--creating the--trust,--is-paid-to-or-held-for-the-United-States-or-any state,-territory,-or-any-political--subdivision--thereof--or the-District-of-Columbia.~~ In cases under subsections (a) and (d) ~~and-(e)~~ of subsection (1) ~~of-this-section~~, the fiduciary

shall include in the return a statement of each beneficiary's distributive share of ~~such~~ net income, whether or not distributed before the close of the taxable year for which the return is made.

(3) In cases under subsections (a), (b), and (c) of subsection (1) ~~of this section,~~ the tax shall be imposed upon the fiduciary of the estate or trust with respect to the net income of the estate or trust and shall be paid by the fiduciary.~~, except that in determining the net income of the estate of any deceased person during the period of administration or settlement, there may be deducted the amount of any income properly paid or credited to any legatee, heir, or other beneficiary. In such cases, the fiduciary of the estate or trust shall be allowed the same exemptions as are allowed to single persons under 15-30-112 and the fiduciary of any estate or trust created by a person not a resident or of an estate of a person not a resident shall be subject to a tax only to the extent to which individuals other than residents are liable under 15-30-131.~~

~~(4) (a) There shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year which is to be distributed currently by the fiduciary to the beneficiaries and the amount of the income collected by a guardian of an infant which is to be held or~~

~~distributed as the court may direct, but the amount so allowed as a deduction shall be included in computing the net income of the beneficiaries whether distributed to them or not. Any amount allowed as a deduction under this subsection shall not be allowed as a deduction under subsection (4)(b) of this section in the same or any succeeding taxable year.~~

~~(b) In the case of income received by estates of deceased persons during the period of administration or settlement of the estate and in the case of income which, in the discretion of the fiduciary, may be either distributed to the beneficiary or accumulated, there shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year which is properly paid or credited during such year to any legatee, heir, or beneficiary, but the amount so allowed as a deduction shall be included in computing the net income of the legatee, heir, or beneficiary.~~

~~(c)~~ If the taxpayer's net income for ~~such~~ the taxable year of the estate or trust is computed upon the basis of a period different from that upon the basis of which the net income of the estate or trust is computed, then his distributive share of the net income of the estate or trust for any accounting period of such estate or trust ending

within the fiscal or calendar year shall be computed upon the basis on which such beneficiary's net income is computed. In such cases, a beneficiary not a resident shall be taxable with respect to his income derived through such estate or trust only to the extent provided in 15-30-131 for individuals other than residents.

~~(5)~~(4) The fiduciary of a trust created by an employer as a part of a stock bonus, pension, or profit-sharing plan for the exclusive benefit of some or all of his employees, to which contributions are made by such employer or employees, or both, for the purpose of distributing to such employees the earnings and principal of the fund accumulated by the trust in accordance with such plan, shall not be taxable under this section, but any amount contributed to such fund by the employer and all earnings of such fund shall be included in computing the income of the distributee in the year in which distributed or made available to him.

~~(6)~~(5) Where any part of the income of a trust other than a testamentary trust is or may be applied to the payment of premiums upon policies of insurance on the life of the grantor (except policies of insurance irrevocably payable for the purposes and in the manner specified relating to the so-called "charitable contribution" deduction) or to the payment of premiums upon policies of life insurance under which the grantor is the beneficiary,

such part of the income of the trust shall be included in computing the net income of the grantor."

NEW SECTION. Section 2. Computation of net income of estates or trusts. (1) Except as otherwise provided in this chapter, "gross income" of estates or trusts means all income from whatever source derived in the taxable year, including but not limited to the following items:

(a) dividends;

(b) interest received or accrued, including interest received on obligations of another state or territory or a county, municipality, district, or other political subdivision thereof, but excluding interest income from obligations of:

(i) the United States government or the state of Montana;

(ii) a school district; or

(iii) a county, municipality, district, or other political subdivision of the state;

(c) income from partnerships and other fiduciaries;

(d) gross rents and royalties;

(e) gain from sale or exchange of property, including those gains that are excluded from gross income for federal fiduciary income tax purposes by section 641(c) of the Internal Revenue Code of 1954, as amended;

(f) gross profit from trade or business; and

(g) refunds recovered on federal income tax, to the extent the deduction of such tax resulted in a reduction of Montana income tax liability.

(2) In computing net income, there are allowed as deductions:

(a) interest expenses deductible for federal tax purposes according to section 163 of the Internal Revenue Code of 1954, as amended;

(b) taxes paid or accrued within the taxable year, including but not limited to federal income tax, but excluding Montana income tax;

(c) that fiduciary's portion of depreciation or depletion which is deductible for federal tax purposes according to sections 167, 611, and 642 of the Internal Revenue Code of 1954, as amended;

(d) charitable contributions that are deductible for federal tax purposes according to section 642(c) of the Internal Revenue Code of 1954, as amended;

(e) administrative expenses claimed for federal income tax purposes, according to sections 212 and 642(g) of the Internal Revenue Code of 1954, as amended, if such expenses were not claimed as a deduction in the determination of Montana inheritance tax;

(f) losses from fire, storm, shipwreck, or other casualty or from theft, to the extent not compensated for by

insurance or otherwise, that are deductible for federal tax purposes according to section 165 of the Internal Revenue Code of 1954, as amended;

(g) net operating loss deductions allowed for federal income tax under section 642(d) of the Internal Revenue Code of 1954, as amended, except estates may not claim losses that are deductible on the decedent's final return;

(h) all benefits received as federal employees' retirement not in excess of $3,600;

(i) all benefits paid under the Montana teachers' retirement system that are specified as exempt from taxation by 19-4-706;

(j) all benefits paid under the Montana Public Employees' Retirement System Act that are specified as exempt from taxation by 19-3-105;

(k) all benefits paid under the Montana highway patrolmen's retirement system that are specified as exempt from taxation by 19-6-705;

(l) Montana income tax refunds or credits thereof;

(m) all benefits paid under 19-11-602, 19-11-604, and 19-11-605 to retired and disabled firemen or their surviving spouses or children;

(n) all benefits paid by first- or second-class cities for the Montana police officers' retirement system provided for by the metropolitan police law;

(o) all benefits not in excess of $360 received as an annuity, pension, or endowment under private or corporate retirement plans or systems.

(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 is not in effect, net 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 net income by reason of the election under subchapter S. However, the shareholder's net income shall include actual distribution from the corporation to the extent it would be treated as taxable dividends if the subchapter S. election were not in effect.

NEW SECTION. Section 3. Adjustments to income of estates and trusts. (1) The following additional deductions shall be allowed in deriving taxable income of estates and trusts:

(a) any amount of income for the taxable year currently required to be distributed to beneficiaries for such year;

(b) any other amounts PROPERLY PAID OR CREDITED OR required to be distributed~~, paid, or credited~~ for the

taxable year;

(c) the amount of 60% of the excess of the net long-term capital gain over the net short-term capital loss for the taxable year.

(2) ~~The following exemptions are allowed for estates and trusts:~~

~~(a) $600 for an estate;~~

~~(b) $300 for a simple trust; and~~

~~(c) $100 for a complex trust.~~ THE EXEMPTION ALLOWED FOR ESTATES AND TRUSTS IS THAT EXEMPTION PROVIDED IN 15-30-112(2)(A) AND 15-30-112(8).

(3) The amount of tax must be determined from taxable income of an estate or trust in the same manner as the tax on taxable income of individuals, by applying the rates contained in 15-30-103. Credits allowed individuals under Title 15, chapter 30, also apply to estates and trusts when applicable.

(4) Remedies available for the administration, enforcement, and collection of individual income taxes also apply to estates and trusts.

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NEW SECTION. Section 5. Codification instruction.

Sections 2 and 3 are intended to be codified as an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, apply to sections 2 and 3.

-End-