

SENATE BILL NO. 244

INTRODUCED BY TOWE

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE SENATE

January 21, 1983	Introduced and referred to Committee on Taxation.
January 24, 1983	Fiscal Note requested.
January 27, 1983	Fiscal Note returned.
February 22, 1983	Committee recommend bill do pass as amended. Report adopted.
February 23, 1983	Bill printed and placed on members' desks.
February 28, 1983	Second reading, do pass as amended.
March 1, 1983	Correctly engrossed.
March 2, 1983	Third reading, passed. Ayes, 37; Noes, 13. Transmitted to House.

IN THE HOUSE

March 3, 1983	Introduced and referred to Committee on Taxation.
March 22, 1983	Committee recommend bill be concurred in. Report adopted.
March 23, 1983	Second reading, concurred in.
March 25, 1983	Third reading, concurred in.

IN THE SENATE

March 26, 1983

Returned to Senate. Sent
to enrolling.

Reported correctly
enrolled.

BILL NO. 244INTRODUCED BY me

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN ADDITION TO ADJUSTED GROSS INCOME FOR CERTAIN LUMP-SUM DISTRIBUTION PAYMENTS; AMENDING SECTION 15-30-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-30-111, MCA, is amended to read:

"15-30-111. Adjusted gross income. (1) Adjusted gross income shall be the taxpayer's federal income tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954 or as that section may be labeled or amended and in addition shall include the following:

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

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

(c) 50% of the ordinary income portion of any lump-sum distribution deducted from gross income pursuant to section 402(e)(3) of the Internal Revenue Code of 1954, as amended.

(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;

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

(c) all benefits received under the Federal Employees' 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;

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SB 244

1 (h) all Montana income tax refunds or credits thereof;
 2 (i) all benefits paid under 19-11-602, 19-11-604, and
 3 19-11-605 to retired and disabled firefighters, their
 4 surviving spouses and orphans;

5 (j) all benefits paid by first- or second-class cities
 6 for the policemen's retirement system provided for by Title
 7 19, chapter 9;

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

10 (3) In the case of a shareholder of a corporation with
 11 respect to which the election provided for under subchapter
 12 S. of the Internal Revenue Code of 1954, as amended, is in
 13 effect but with respect to which the election provided for
 14 under 15-31-202, as amended, is not in effect, adjusted
 15 gross income does not include any part of the corporation's
 16 undistributed taxable income, net operating loss, capital
 17 gains or other gains, profits, or losses required to be
 18 included in the shareholder's federal income tax adjusted
 19 gross income by reason of the said election under subchapter
 20 S. However, the shareholder's adjusted gross income shall
 21 include actual distributions from the corporation to the
 22 extent they would be treated as taxable dividends if the
 23 subchapter S. election were not in effect.

24 (4) A shareholder of a DISC that is exempt from the
 25 corporation license tax under 15-31-102(1)(1) shall include

1 in his adjusted gross income the earnings and profits of the
 2 DISC in the same manner as provided by federal law (section
 3 995, Internal Revenue Code) for all periods for which the
 4 DISC election is effective."

5 ~~NEW SECTION.~~ Section 2. Effective date --
 6 applicability. This act is effective on passage and approval
 7 and applies to taxable years beginning after December 31,
 8 1982.

-End-

STATE OF MONTANA

211-83

REQUEST NO. _____

FISCAL NOTE

Form BD 15

In compliance with a written request received January 24, , 19 83 , there is hereby submitted a Fiscal Note for Senate Bill 244 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:

Senate Bill 244 requires an addition to adjusted gross income for certain lump-sum distribution payments and provides an immediate effective date and an applicability date.

ASSUMPTIONS:

- 1) 640 Montana taxpayers will be subject to the proposed lump-sum distribution tax.
- 2) The Department of Revenue estimates an additional tax of \$340 for each of the additional 640 taxpayers.
- 3) Individual income tax estimates are as stated by the Office of Budget and Program Planning.

FISCAL IMPACT:

	<u>FY 84</u>	<u>FY 85</u>
Individual Income Tax		
Under Current Law	\$166.427 M	\$175.460 M
Under Proposed Law	166.645 M	175.678 M
Estimated Increase	<u>\$.218 M</u>	<u>\$.218 M</u>
General Fund		
Under Current Law	\$106.513 M	\$112.294 M
Under Proposed Law	106.652 M	112.433 M
Estimated Increase	<u>\$.139 M</u>	<u>\$.139 M</u>
School Equalization Fund		
Under Current Law	\$ 41.607 M	\$ 43.865 M
Under Proposed Law	41.662 M	43.920 M
Estimated Increase	<u>\$.055 M</u>	<u>\$.055 M</u>
Sinking Fund		
Under Current Law	\$ 18.307 M	\$ 19.301 M
Under Proposed Law	18.331 M	19.325 M
Estimated Increase	<u>\$.024 M</u>	<u>\$.024 M</u>

FISCAL NOTE 8:P/1


BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-27-83

Approved by committee
on taxation

SENATE BILL NO. 244

INTRODUCED BY TOME

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING ~~AN~~ ADJUSTED
FEDERAL ADJUSTED-GROSS INCOME FOR A SEPARATE TAX ON CERTAIN
LUMP-SUM DISTRIBUTION PAYMENTS; AMENDING SECTION 15-30-111
HEREIN AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
APPLICABILITY DATE."

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

Section 15-30-111 HEREIN is amended to read:

"15-30-111--Adjusted-gross-income--(1)--Adjusted-gross

income shall be the taxpayer's federal income tax adjusted
gross income as defined in section 62 of the Internal
Revenue Code of 1954 or as that section may be amended or
amended and in addition shall include the following:

(a)--interest--received--on--obligations--of--another--state
or--territory--or--county--municipality--district--or--other
political--subdivision--thereof

(b)--refunds--received--of--federal--income--tax--to--the
extent--the--deduction--of--such--tax--resulted--in--a--reduction--of
Montana--income--tax--liability

(c)--50%--of--the--ordinary--income--portion--of--any--lump-sum
distribution--deducted--from--gross--income--pursuant--to--section

~~621111 of the Internal Revenue Code of 1954 as amended~~

(2)--Notwithstanding the provisions of the federal
Internal Revenue Code of 1954 as amended 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

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

(c)--all--benefits--received--under--the--Federal--Employees'
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

1 by-19-6-705+

2 (h)--all-Montana-income-tax-refunds-or-credits-thereof

3 (i)--all-benefits-paid-under-19-11-602y-19-11-604y--and

4 19-11-605---to--retired--and--disabled--firefighters--their

5 surviving-spouses-and-orphanst

6 (j)--all-benefits-paid-by-first--or-second-class-cities

7 for-the-police-men's-retirement-system-provided-for-by--title

8 19y-chapter-9+

9 (k)--gain--required--to--be-recognized-by-a-liquidating

10 corporation-under-15-31-113(1)(a)(ii)+

11 (l)--in-the-case-of-a-shareholder-of-a-corporation-with

12 respect-to-which-the-election-provided-for-under--subchapter

13 5r--of--the-Internal-Revenue-Code-of-1954y-as-amendedy--is-in

14 effect-but-with-respect-to-which-the-election--provided--for

15 under--15-31-202y--as--amendedy--is--not-in-effecty-adjusted

16 gross-income-does-not-include-any-part-of-the-corporation's

17 undistributed--taxable--incomey--net-operating-lossy-capital

18 gains-or-other-gainsy-profitsy--or--losses--required--to--be

19 included--in--the--shareholder's-federal-income-tax-adjusted

20 gross-income-by-reason-of-the-said-election-under-subchapter

21 5r-Howevery-the-shareholder's-adjusted-gross--income--shall

22 include--actual--distributions--from--the-corporation-to-the

23 extent-they-would-be-treated-as--taxable--dividends--if--the

24 subchapter-5r-election-were-not-in-effecty

25 (4)--A--shareholder--of--a-0156-that-is-exempt-from-the

1 corporation-license-tax-under-15-31-102(1)(1)--shall--include

2 in-his-adjusted-gross-income-the-earnings-and-profits-of-the

3 0156--in-the-same-manner-as-provided-by-federal-law-(section

4 995y-Internal-Revenue-Code)-for-all-periods--for--which--the

5 0156-election-is-effective"

6 THERE IS A NEW MCA SECTION THAT READS:

7 Section 1. Tax on lump-sum distributions. (1) There

8 is imposed a separate tax on the ordinary income portion of

9 a lump-sum distribution.

10 (2) The tax is 10% of the amount of tax determined

11 under section 402(e) of the Internal Revenue Code of 1954,

12 as amended, or as section 402(e) may be renumbered or

13 amended.

14 (3) All means available for the administration and

15 enforcement of income taxes shall be applied to the tax on

16 lump-sum distributions.

17 SECTION 2. CODIFICATION INSTRUCTION. SECTION 1 IS

18 INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 15,

19 CHAPTER 30, AND THE PROVISIONS OF TITLE 15, CHAPTER 30,

20 APPLY TO SECTION 1.

21 NEW SECTION. Section 3. Effective date --

22 applicability. This act is effective on passage and approval

23 and applies to taxable years beginning after December 31,

24 1982.

-End-

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN ADDITION
TO ADJUSTED GROSS INCOME FOR A SEPARATE TAX ON CERTAIN
LUMP-SUM DISTRIBUTION PAYMENTS; AMENDING SECTION 15-30-111
MCA AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
APPLICABILITY DATE."

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

Section 15-30-111 MCA is amended to read:

"15-30-111. Adjusted gross incomes--(1) Adjusted gross
income shall be the taxpayer's federal income tax adjusted
gross income as defined in section 62 of the Internal
Revenue Code of 1954 or as that section may be labeled or
amended and in addition shall include the following:

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

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

(c) 50% of the ordinary income portion of any lump-sum
distribution deducted from gross income pursuant to section

~~402(c)(3) of the Internal Revenue Code of 1954 as amended;~~

(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;

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

(c) all benefits received under the Federal Employees'
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 17-3-105;

(g) all benefits paid under the highway patrol
retirement law which are specified as exempt from taxation

1 by-19-6-705~~†~~
2 ~~{h}--all-Montana-income-tax-refunds-or-credits-thereof†~~
3 ~~{i}--all-benefits-paid-under-19-11-602†-19-11-604†--and~~
4 ~~19-11-605--to--retired--and--disabled--firefighters†-their~~
5 ~~surviving-spouses-and-orphan†~~
6 ~~{j}--all-benefits-paid-by-first-or-second-class-cities~~
7 ~~for-the-police-men's-retirement-system-provided-for-by--Title~~
8 ~~19†-chapter-9†~~
9 ~~{k}--gain--required--to--be-recognized-by-a-liquidating~~
10 ~~corporation-under-15-31-113†{†}{†}†~~
11 ~~{3}--in-the-case-of-a-shareholder-of-a-corporation-with~~
12 ~~respect-to-which-the-election-provided-for-under--subchapter~~
13 ~~5†--of--the-Internal-Revenue-Code-of-1954†--as-amended†--is-in~~
14 ~~effect-but-with-respect-to-which-the-election--provided--for~~
15 ~~under--15-31-202†--as-amended†--is--not-in-effect†-adjusted~~
16 ~~gross-income-does-not-include-any-part-of-the--corporation's~~
17 ~~undistributed--taxable--income†--net-operating-loss†-capital~~
18 ~~gains-or-other-gains†-profits†--or--losses--required--to--be~~
19 ~~included--in--the--shareholder's-federal-income-tax-adjusted~~
20 ~~gross-income-by-reason-of-the-said-election-under-subchapter~~
21 ~~5†-However-the-shareholder's-adjusted--gross--income--shall~~
22 ~~include--actual--distributions--from--the-corporation-to-the~~
23 ~~extent-they-would-be-treated-as--taxable--dividends--if--the~~
24 ~~subchapter-5†-election-were-not-in-effect†~~
25 ~~{4}--A--shareholder--of--a-0156-that-is-exempt-from-the~~

1 corporation-license-tax-under-15-31-102†{†}{†}--shall--include
2 in-his-adjusted-gross-income-the-earnings-and-profits-of-the
3 0156--in-the-same-manner-as-provided-by-federal-law-(section
4 995†-Internal-Revenue-Code)-for-all-periods--for-which--the
5 0156-election-is-effective†

6 THERE IS A NEW MCA SECTION THAT READS:

7 Section 1. Tax on lump-sum distributions. (1) There
8 is imposed a separate tax on the ordinary-income-portion--of
9 a lump-sum distribution DISTRIBUTIONS.

10 (2) The tax is 10% of the amount of tax determined
11 under section 402(e) of the Internal Revenue Code of 1954,
12 as amended, or as section 402(e) may be renumbered or
13 amended.

14 (3) All means available for the administration and
15 enforcement of income taxes shall be applied to the tax on
16 lump-sum distributions.

17 SECTION 2. CODIFICATION INSTRUCTION. SECTION 1 IS
18 INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 15.
19 CHAPTER 30. AND THE PROVISIONS OF TITLE 15, CHAPTER 30,
20 APPLY TO SECTION 1.

21 NEW SECTION. Section 3. Effective date --
22 applicability. This act is effective on passage and approval
23 and applies to taxable years beginning after December 31,
24 1982.

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

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

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

(c) 50% of the ordinary income portion of any lump-sum
distribution deducted from gross income pursuant to section

62121 of the Internal Revenue Code of 1954 as amended
(2) Notwithstanding the provisions of the federal
Internal Revenue Code of 1954 as amended 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;

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

(c) all benefits received under the Federal Employees'
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

1 by 19-6-785†
 2 {h}--all Montana income tax refunds or credits thereof†
 3 {i}--all benefits paid under 19-11-602† 19-11-604† and
 4 19-11-605† to retired and disabled firefighters† their
 5 surviving spouses and orphans†
 6 {j}--all benefits paid by first or second class cities
 7 for the policemen's retirement system provided for by title
 8 19† chapter 9†
 9 {k}--gain required to be recognized by a liquidating
 10 corporation under 15-31-113† {l}† {m}†
 11 {n}--in the case of a shareholder of a corporation with
 12 respect to which the election provided for under subchapter
 13 5† of the Internal Revenue Code of 1954† as amended† is in
 14 effect but with respect to which the election provided for
 15 under 15-31-202† as amended† is not in effect† adjusted
 16 gross income does not include any part of the corporation's
 17 undistributed taxable income† net operating loss† capital
 18 gains or other gains† profits† or losses† required to be
 19 included in the shareholder's federal income tax adjusted
 20 gross income by reason of the said election under subchapter
 21 5†. However† the shareholder's adjusted gross income shall
 22 include actual distributions from the corporation to the
 23 extent they would be treated as taxable dividends if the
 24 subchapter 5† election were not in effect†
 25 {4}--A shareholder of a 8156† that is exempt from the

1 corporation† license tax under 15-31-102† {†}† shall include
 2 in his adjusted gross income the earnings and profits of the
 3 8156† in the same manner as provided by federal law† (section
 4 995† Internal Revenue Code) for all periods for which the
 5 8156† election is effective†

6 THERE IS A NEW MCA SECTION THAT READS:

7 Section 1. Tax on lump-sum distributions. (1) There
 8 is imposed a separate tax on the ordinary income portion of
 9 a lump-sum distribution DISTRIBUTIONS.

10 (2) The tax is 10% of the amount of tax determined
 11 under section 402(e) of the Internal Revenue Code of 1954†
 12 as amended† or as section 402(e) may be renumbered or
 13 amended.

14 (3) All means available for the administration and
 15 enforcement of income taxes shall be applied to the tax on
 16 lump-sum distributions.

17 SECTION 2. CODIFICATION INSTRUCTION. SECTION 1 IS
 18 INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 15.
 19 CHAPTER 30. AND THE PROVISIONS OF TITLE 15. CHAPTER 30.
 20 APPLY TO SECTION 1.

21 NEW SECTION. Section 3. Effective date --
 22 applicability. This act is effective on passage and approval
 23 and applies to taxable years beginning after December 31,
 24 1982.

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