# 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 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.

1 2 INTRODUCED BY

BY REQUEST OF THE DEPARTMENT OF REVENUE

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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."

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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 Hontana 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.

1	(2)	Notwithstanding the provisions of the federal
2	Internal	Revenue Code of 1954 as labeled or amended,
3	adjusted	gross income does not include the following which
4	are exemo	t from taxation under this chapter:

- 5 (a) all interest income from obligations of the United 6 States government, the state of Montana, county, 7 municipality, district, or other political subdivision 8 thereof:
- 9 (b) interest income earned by a taxpayer age 65 or 10 older in a taxable year up to and including \$800 for a 11 taxpayer filing a separate return and \$1,600 for each joint 12 return:
- 13 (c) all benefits received under the Federal Employees\*
  14 Retirement Act not in excess of \$3,600;

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- (d) all benefits, not in excess of \$360, received as an annuity, pension, or endowment under any private or corporate retirement plan or system;
- 18 (e) all benefits paid under the teachers retirement 19 law which are specified as exempt from taxation by 19-4-706;
- 20 (f) all benefits paid under The Public Employees\*
  21 Retirement System Act which are specified as exempt from
  22 taxation by 19-3-105;
- 23 (g) all benefits paid under the highway patrol 24 retirement law which are specified as exempt from taxation 25 by 19-6-705;

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

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- 5 (j) all benefits paid by first- or second-class cities
  6 for the policemen's retirement system provided for by Title
  7 l9, chapter 9;
  - (k) gain required to be recognized by a liquidating corporation under 15~31-113(1)(a)(ii).
  - (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, as amended, is not in effect, adjusted gross 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 adjusted gross income by reason of the said election under subchapter S. However, the shareholder's adjusted gross income shall include actual distributions from the corporation to the extent they would be treated as taxable dividends if the subchapter S. election were not in effect.
  - (4) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(1) shall include

DISC in the same manner as provided by federal law (section 995, Internal Revenue Code) for all periods for which the DISC election is effective.\*\*

NEW SECTION: Section 2. Effective date — applicability. This act is effective on passage and approval and applies to taxable years beginning after December 31, 1982.

in his adjusted gross income the earnings and profits of the

-End-

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:

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

FISCAL NOTE 8:P/1

BUDGET DIRECTOR

Office of Budget and Program Planning

48th Legislature

SB 0244/02

SB 0244/02

Approved by committee on taxation

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6	FRABJUSTEBGROSSINCOMEFOR A_SECARATE_IAX_ON CERTAIN
7	LUMP-SUM DISTRIBUTION PAYMENTS; AMENDING-SECTION15-38-1114
8	MEAT AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
9	APPLICABILITY DATE.*
10	
11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12	Section-laSection-15-38-111y-M64y-is-amended-to-read:
13	#15-38-111:Adjusted-gross-income:{1}-Adjusted-gross
14	income-shail-be-the-taxpayeris-federal-incometaxadjusted
15	grossincomeasdefinedinsection62of-the-Internal
16	Revenue-Bode-of-1954-or-as-that-section-maybelabeledor
17	amended-and-in-oddition-shall-include-the-following:
18	tajinterestreceived-on-obligations-of-another-state
19	or-territory-or-countyymunicipalityydistrictyorother
20	połiticał-subdivision-thereoft
21	(b)refundsreceivedoffederalincome-taxy-to-the
22	extent-the-deduction-of-such-tax-resulted-in-a-reductionof
23	Montane-income-tax-fiebiffity#1
24	fel==50%=of=therordinary=income=portion=of=any=lump=aum
25	distribution==deducted=from=gross=income=pursuant=to=section

1	102fc1f3}=of=the=Internal=Revenue=Ende=of=1954x=aa==amendedw
2	t2)Notwithstandingtheprovisionsofthefederal
3	InternalRevenueEodsof1954aslabeledoramendedy
4	adjustedgrassincome-does-not-include-the-following-which
5	are-exempt-from-taxation-under-this-chapter:
6	{a}all-interest-income-from-obligations-of-the-United
7	StatesgovernmentythestateofMontanaycountyy
8	municipalityydistrictyorotherpoliticalsubdivision
9	thereofs
10	tb}interest-income-earned-by-ataxpayerage65or
11	ołderinataxabłeyearupto-and-inełuding-\$808-for-a
12	taxpayer-filing-a-separate-roturn-and-\$ly600-for-eachjoint
13	return;
14	tc:all-benefits-received-under-the-Federal-Employees*
15	Retirement-ict-not-in-excess-of-\$3y600;
15	fd;aftbenefitaynot-in-excess-of-\$360y-received-as
17	en-annuityy-pensionyorendowmentunderonyprivateor
18	corporate-retirement-plan-or-system;
19	<pre>{e}affbenefitspaid-under-the-teachers*-retirement</pre>
20	law-which-are-specified-as-exempt-from-taxation-by-19-4-786;
21	ff}all-benefitspaidunderThePublicEmployees*
22	RetirementSystemActwhichare-specified-as-exempt-from
23	texation-by-19-3-185;
24	(g)ollbenefitspaidunderthehighwaypatrol

retirement-law--which-are-specified-as-exempt-from-taxation

1	by-19-6-705†
2	<pre>{h}a+}-Montona-income-tax-refunds-or-credits-thereof;</pre>
3	{i}all-benefits-paid-under-19-11-602v-19-11-604vand
4	19-11-685toretiredanddisabledfirefightersytheir
5	aurviving-spouses-end-orphenst
6	<del>(j)all-benefits-paid-by-firstof-second-class-cities</del>
7	for-the-policemen*s-retirement-system-provided-for-byfitle
Я	19y-chapter-9t
9	fk}gainrequiredtobe-recognized-by-a-liquidoting
10	corporation-under-15-31-113(1)(a)(ii)
11	{3}in-the-case-of-a-shareholder-of-a-corporation-with
12	respect-to-which-the-election-provided-for-undersubchapter
13	Syofthe-Internal-Revenue-Cade-of-1954y-as-amendedy-is-in
14	effect-but-with-respect-to-which-the-electionprovidedfor
15	under15-31-202yasamendedyisnot-in-effecty-adjusted
16	gross-income-does-not-include-any-part-of-thecorporation*s
17	undistributedtaxableincomeynet-operating-lossy-capital
18	gains-or-other-quinsy-profitsyorlossesrequiredtobe
19	includedintheshareholder*s-federal-income-tex-adjusted
20	gross-income-by-reason-of-the-said-election-under-subchapter
21	Sw-Howevery-the-shareholder4s-adjustedgrossincomeshall
22	include-ractualdistributionsfromthe-corporation-to-the
23	extent-they-would-be-treated-astaxabledividendsifthe
24	subchapter-Sw-election-were-not-in-effectw

f4)--k--shareholder--of--a-0156-that-is-exempt-from-the

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ı	composition-license-tax-under-t5-31-102(1)(1)-shallinclud
2	in-his-adjusted-gross-income-the-thriags-and-profits-of-th
3	BISEin-the-some-manner-as-provided-by-federal-law-(sectio
4	995y-Enternat-Revenue-Code)-for-all-periodsforwhichth
5	DISC-slection-is-effectivev <sup>#</sup>
6	THERE_IS_A_NEW_MCA_SECTION_THAT_READS:
7	Section 1. Tax on lump-sum distributions. (1) There
B	is imposed a separate tax on the ordinary income portion of
9	a lume-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 of
16	lump-sum distributions.
17	SECTION 2. CODIFICATION INSTRUCTION. SECTION 1 1
18	INTENDED TO BE CODIFIED AS AN INTEGRAL PART DE TITLE 15:
19	CHAPIER 30. AND THE PROVISIONS OF TITLE 15. CHAPIER 30.
20	APPLY_IO_SECIIOH_1.
21	NEW_SECTION: Section 3. Effective date -
<b>2</b> 2	applicability. This act is effective on passage and approva
23	and applies to taxable years beginning after December 31
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3	Montana-income-tox-liability:
4	fct==50%=of=the=ordinary=income=portion=of=ony=lump=sum
5	distributiondeducted-from-gross-income-pursuant-to-section

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2	<del>(2)Notwithstandingtheprovisionsofthefederal</del>
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11	olderinatexableyearupto-end-including-\$808-for-a
12	toxpayer-filing-o-separate-return-and-fly688-for-eachjoint
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14	(c)all-benefits-received-under-the-Federal-Employees≛
15	Retirement-Act-not-in-excess-of-\$3y688+
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17	an-annuityy-ponsionyorendowmentunderanyprivateor
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20	low-which-are-specified-as-exempt-from-taxation-by-19-4-706;
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22	Retirement5ystemActwhichare-specified-as-exempt-from
23	taxation-by-17-3-105;
24	fg}a}}benefitspaidunderthehighwaypatroi
25	retirementlawwhich-are-specified-as-exempt-from-taxetion

1	by-19-6-785†
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3	<del>(i)all-benefits-paid-under-19-11-602y-19-11-604yand</del>
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5	surviving-spouses-end-orphans;
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8	19y-chapter-9;
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1	corporation freelast cox and state 13-31-105(1)(1) and the free cox
z	in-his-adjusted-gross-income-the-earnings-and-profits-of-th
3	BISCin-the-same-manner-as-provided-by-federal-law-tsectio
4	995y-Internal-Revenue-Gode)-for-all-periodsforwhichth
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6	THERE IS A NEW MCA SECTION THAT READS:
7	Section 1. Tax on lump-sum distributions. (1) There
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9	a lump-sum distribution <u>DISTRIBUTIONS</u> .
10	(2) The tax is 10% of the amount of tax determined
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<b>.</b>	distribution-underland-frame announcement and a continue

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retirement--low--which-are-specified-as-exempt-from-taxation

1	by- <del>19-</del> 6-785 <del>1</del>
2	<pre>fh)all-Montama-income-tax-refunds-of-credits-thereof;</pre>
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