

SENATE BILL NO. 43

INTRODUCED BY TOWE

BY REQUEST OF THE DEPARTMENT OF REVENUE  
AND THE REVENUE OVERSIGHT COMMITTEE

IN THE SENATE

January 7, 1985	Introduced and referred to Committee on Taxation.
January 8, 1985	Fiscal Note requested.
January 12, 1985	Fiscal Note returned.
January 22, 1985	Committee recommend bill do pass. Report adopted.
January 23, 1985	Bill printed and placed on members' desks.
January 24, 1985	Second reading, do pass.
January 25, 1985	Considered correctly engrossed.
January 26, 1985	Third reading, passed. Ayes, 32; Noes, 14.  Transmitted to House.

IN THE HOUSE

January 28, 1985	Introduced and referred to Committee on Taxation.
March 15, 1985	Committee recommend bill be concurrred in. Report adopted.
March 18, 1985	Second reading, concurrred in.
March 20, 1985	Third reading, concurrred in.  Returned to Senate.

IN THE SENATE

March 20, 1985

Received from House.

Sent to enrolling.

Reported correctly enrolled.

1                    SENATE BILL NO. 43  
2 INTRODUCTION BY TOWE  
3 BY REQUEST OF THE DEPARTMENT OF REVENUE  
4 AND THE REVENUE OVERSIGHT COMMITTEE  
5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCLUDE IN MONTANA  
7 ADJUSTED GROSS INCOME THE PORTION OF SMALL BUSINESS  
8 CORPORATION INCOME WHICH ESCAPES STATE TAX; AMENDING SECTION  
9 5-30-111, MCA; AND PROVIDING AN APPLICABILITY DATE AND AN  
10 IMMEDIATE EFFECTIVE DATE."  
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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
13 Section 1. Section 15-30-111, MCA, is amended to read:  
14 "15-30-111. Adjusted gross income. (1) Adjusted gross  
15 income shall be the taxpayer's federal income tax adjusted  
16 gross income as defined in section 62 of the Internal  
17 Revenue Code of 1954 or as that section may be labeled or  
18 amended and in addition shall include the following:  
19 (a) interest received on obligations of another state  
20 or territory or county, municipality, district, or other  
21 political subdivision thereof;  
22 (b) refunds received of federal income tax, to the  
23 extent the deduction of such tax resulted in a reduction of  
24 Montana income tax liability; and  
25 (c) that portion of a shareholder's income under

1 subchapter S. of Chapter 1 of the Internal Revenue Code of  
2 1954 that has been reduced by any federal taxes paid by the  
3 subchapter S. corporation on the income.  
4 (2) Notwithstanding the provisions of the federal  
5 Internal Revenue Code of 1954 as labeled or amended,  
6 adjusted gross income does not include the following which  
7 are exempt from taxation under this chapter:  
8 (a) all interest income from obligations of the United  
9 States government, the state of Montana, county,  
10 municipality, district, or other political subdivision  
11 thereof;  
12 (b) interest income earned by a taxpayer age 65 or  
13 older in a taxable year up to and including \$800 for a  
14 taxpayer filing a separate return and \$1,600 for each joint  
15 return;  
16 (c) all benefits received under the Federal Employees'  
17 Retirement Act not in excess of \$3,600;  
18 (d) all benefits, not in excess of \$360, received as  
19 an annuity, pension, or endowment under any private or  
20 corporate retirement plan or system;  
21 (e) all benefits paid under the teachers' retirement  
22 law which are specified as exempt from taxation by 19-4-706;  
23 (f) all benefits paid under The Public Employees'  
24 Retirement System Act which are specified as exempt from  
25 taxation by 19-3-105;



INTRODUCED BILL  
-2- SB 43

1 (g) all benefits paid under the highway patrol  
2 retirement law which are specified as exempt from taxation  
3 by 19-6-705;

4 (h) all Montana income tax refunds or credits thereof;

5 (i) all benefits paid under 19-11-602, 19-11-604, and  
6 19-11-605 to retired and disabled firefighters, their  
7 surviving spouses and orphans;

8 (j) all benefits paid by first- or second-class cities  
9 for the policemen's retirement system provided for by Title  
10 19, chapter 9;

11 (k) gain required to be recognized by a liquidating  
12 corporation under 15-31-113(1)(a)(ii);

13 (1) all tips covered by section 3402(k) of the  
14 Internal Revenue Code of 1954, as amended and applicable on  
15 January 1, 1983, received by persons for services rendered  
16 by them to patrons of premises licensed to provide food,  
17 beverage, or lodging.

18 (3) In the case of a shareholder of a corporation with  
19 respect to which the election provided for under subchapter  
20 S. of the Internal Revenue Code of 1954, as amended, is in  
21 effect but with respect to which the election provided for  
22 under 15-31-202, as amended, is not in effect, adjusted  
23 gross income does not include any part of the corporation's  
24 undistributed taxable income, net operating loss, capital  
25 gains or other gains, profits, or losses required to be

1 included in the shareholder's federal income tax adjusted  
2 gross income by reason of the said election under subchapter  
3 S. However, the shareholder's adjusted gross income shall  
4 include actual distributions from the corporation to the  
5 extent they would be treated as taxable dividends if the  
6 subchapter S. election were not in effect.

7 (4) A shareholder of a DISC that is exempt from the  
8 corporation license tax under 15-31-102(1)(1) shall include  
9 in his adjusted gross income the earnings and profits of the  
10 DISC in the same manner as provided by federal law (section  
11 995, Internal Revenue Code) for all periods for which the  
12 DISC election is effective.

13 (5) A taxpayer who, in determining federal adjusted  
14 gross income, has reduced his business deductions by an  
15 amount for wages and salaries for which a federal tax credit  
16 was elected under section 44B of the Internal Revenue Code  
17 of 1954 or as that section may be labeled or amended is  
18 allowed to deduct the amount of such wages and salaries paid  
19 regardless of the credit taken. The deduction must be made  
20 in the year the wages and salaries were used to compute the  
21 credit. In the case of a partnership or small business  
22 corporation, the deduction must be made to determine the  
23 amount of income or loss of the partnership or small  
24 business corporation."

25 NEW SECTION. Section 2. Effective date --

1 applicability. This act is effective on passage and approval  
2 and applies to taxable years beginning after December 31,  
3 1984.

4 NEW SECTION. Section 3. Extension of authority. Any  
5 existing authority of the department of revenue to make  
6 rules on the subject of the provisions of this act is  
7 extended to the provisions of this act.

-End-

STATE OF MONTANA  
FISCAL NOTE

REQUEST NO. FNN024-85

Form **BD-15**

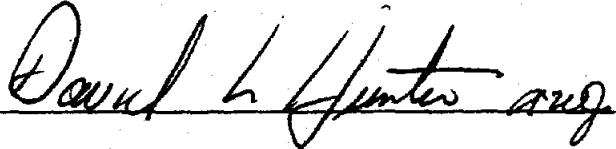
In compliance with a written request received January 8, 1985, there is hereby submitted a Fiscal Note for S.B. 43 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION

An act to include in Montana adjusted gross income the portion of small business corporation income which escapes state tax; amending section 15-30-111, MCA; and providing an applicability date and an immediate effective date.

FISCAL IMPACT

Federal statutes allow the deduction of "special" taxes in the calculation of income of Sub-S corporations; distorting the income figure for Montana tax purposes. This proposal closes these loopholes and would produce some additional revenue. However, it is not possible to estimate the fiscal impact of the proposal with available income tax data.

  
BUDGET DIRECTOR  
Office of Budget and Program Planning  
Date: Jan 15, 1985

APPROVED BY COMMITTEE ON TAXATION

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ORIGINAL

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THIRD READING  
50 43



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LC 0151/01

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