

SENATE BILL NO. 47

1/07 Introduced
1/07 Referred to Taxation
1/08 Hearing
1/08 Fiscal Note Requested
1/12 Fiscal Note Received
1/14 Committee Report-Bill Pass As Amended
1/16 2nd Reading Pass
1/18 3rd Reading Pass

Transmitted to House

1/19 Referred to Taxation
3/14 Hearing

1 SENATE BILL NO. 47
 2 INTRODUCED 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 INCOME FROM
 7 SUBCHAPTER S CORPORATIONS IN THE DEFINITION OF EARNED
 8 INCOME; AMENDING SECTION 15-30-131, MCA; AND PROVIDING AN
 9 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 15-30-131, MCA, is amended to read:
 13 "15-30-131. Nonresident and temporary resident
 14 taxpayers -- adjusted gross income -- deductions. (1) In the
 15 case of a taxpayer other than a resident of this state,
 16 adjusted gross income includes the entire amount of adjusted
 17 gross income from sources within this state but shall not
 18 include income from annuities, interest on bank deposits,
 19 interest on bonds, notes, or other interest-bearing
 20 obligations, or dividends on stock of corporations except to
 21 the extent to which the same shall be a part of income from
 22 any business, trade, profession, or occupation carried on in
 23 this state. Adjusted gross income from sources within and
 24 without this state shall be allocated and apportioned under
 25 rules prescribed by the department.

1 (2) In the case of a taxpayer other than a resident of
 2 this state who is a resident of a state that imposes a tax
 3 on the income of natural persons residing within that state,
 4 the deductions allowed in computing net income are
 5 restricted to those directly connected with the production
 6 of Montana income.

7 (3) In the case of a taxpayer other than a resident of
 8 this state who is a resident of a state that does not impose
 9 a tax on the income of natural persons residing within that
 10 state, the deductions allowed in computing net income are
 11 restricted to the greater of those directly relating to the
 12 production of Montana income or a prorated amount of those
 13 allowed under 15-30-121. For the purposes of this
 14 subsection, deductions allowed under 15-30-121 apply only to
 15 earned income and must be prorated according to the ratio
 16 that the taxpayer's Montana earned income bears to his
 17 federal earned income.

18 (4) A temporary resident shall be allowed those
 19 deductions and the credit under 15-32-109 allowed a resident
 20 to the extent that such deductions or credit were actually
 21 incurred or expended in the state of Montana during the
 22 course of his residency.

23 (5) For the purposes of this section, "earned income"
 24 shall be defined as the same term is defined in section 43
 25 of the Internal Revenue Code, or as that section may



-2- INTRODUCED BILL
 SB 47

1 subsequently be amended, except that for the purposes of the
2 ratio in subsection (3), "earned income" shall include
3 income from any corporation doing business in Montana which
4 has made a valid election under subchapter S of chapter 1 of
5 the Internal Revenue Code of 1954, as amended.

6 (6) Notwithstanding the provisions of subsections (2)
7 and (3), any contribution made after December 31, 1982, to
8 the state of Montana or a political subdivision thereof
9 shall be an allowable deduction in computing net income.
10 The deduction is subject to the limitations set forth in
11 section 170 of the Internal Revenue Code of 1954, as labeled
12 or amended."

13 NEW SECTION. Section 2. Extension of authority. Any
14 existing authority of the department of revenue to make
15 rules on the subject of the provisions of this act is
16 extended to the provisions of this act.

17 NEW SECTION. Section 3. Effective date --
18 applicability date. This act is effective on passage and
19 approval and applies to tax years beginning after December
20 31, 1984.

-End-

STATE OF MONTANA
FISCAL NOTE

REQUEST NO. FNN026-85

Form BD-15

In compliance with a written request received January 8, 19 85, there is hereby submitted a Fiscal Note for S.B. 47 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 income from subchapter S corporations in the definition of earned income; amending section 15-30-131, MCA; and providing an immediate effective date and an applicability date.

FISCAL IMPACT

The proposal is expected to have a minimal fiscal impact, although it is impossible to estimate the magnitude with existing data. The proposal will affect few taxpayers, all of whom are nonresidents.

 David L. Hunter *awg*

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: JAN 11, 1985

APPROVED BY COMMITTEE
ON TAXATION

1 SENATE BILL NO. 47
2 INTRODUCED 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 INCOME AND
7 LOSSES FROM SUBCHAPTER S CORPORATIONS IN THE DEFINITION OF
8 EARNED INCOME; AMENDING SECTION 15-30-131, MCA; AND
9 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY
10 DATE."

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

13 Section 1. Section 15-30-131, MCA, is amended to read:
14 "15-30-131. Nonresident and temporary resident
15 taxpayers -- adjusted gross income -- deductions. (1) In the
16 case of a taxpayer other than a resident of this state,
17 adjusted gross income includes the entire amount of adjusted
18 gross income from sources within this state but shall not
19 include income from annuities, interest on bank deposits,
20 interest on bonds, notes, or other interest-bearing
21 obligations, or dividends on stock of corporations except to
22 the extent to which the same shall be a part of income from
23 any business, trade, profession, or occupation carried on in
24 this state. Adjusted gross income from sources within and
25 without this state shall be allocated and apportioned under

1 rules prescribed by the department.

2 (2) In the case of a taxpayer other than a resident of
3 this state who is a resident of a state that imposes a tax
4 on the income of natural persons residing within that state,
5 the deductions allowed in computing net income are
6 restricted to those directly connected with the production
7 of Montana income.

8 (3) In the case of a taxpayer other than a resident of
9 this state who is a resident of a state that does not impose
10 a tax on the income of natural persons residing within that
11 state, the deductions allowed in computing net income are
12 restricted to the greater of those directly relating to the
13 production of Montana income or a prorated amount of those
14 allowed under 15-30-121. For the purposes of this
15 subsection, deductions allowed under 15-30-121 apply only to
16 earned income and must be prorated according to the ratio
17 that the taxpayer's Montana earned income bears to his
18 federal earned income.

19 (4) A temporary resident shall be allowed those
20 deductions and the credit under 15-32-109 allowed a resident
21 to the extent that such deductions or credit were actually
22 incurred or expended in the state of Montana during the
23 course of his residency.

24 (5) For the purposes of this section, "earned income"
25 shall be defined as the same term is defined in section 43



1 of the Internal Revenue Code, or as that section may
2 subsequently be amended, except that for the purposes of the
3 ratio in subsection (3), "earned income" shall include
4 income AND LOSSES from any corporation doing business in
5 Montana which has made a valid election under subchapter S
6 of chapter 1 of the Internal Revenue Code of 1954, as
7 amended.

8 (6) Notwithstanding the provisions of subsections (2)
9 and (3), any contribution made after December 31, 1982, to
10 the state of Montana or a political subdivision thereof
11 shall be an allowable deduction in computing net income.
12 The deduction is subject to the limitations set forth in
13 section 170 of the Internal Revenue Code of 1954, as labeled
14 or amended."

15 NEW SECTION. Section 2. Extension of authority. Any
16 existing authority of the department of revenue to make
17 rules on the subject of the provisions of this act is
18 extended to the provisions of this act.

19 NEW SECTION. Section 3. Effective date --
20 applicability date. This act is effective on passage and
21 approval and applies to tax years beginning after December
22 31, 1984.

-End-

1 SENATE BILL NO. 47

2 INTRODUCED 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 INCOME AND
7 LOSSES FROM SUBCHAPTER S CORPORATIONS IN THE DEFINITION OF
8 EARNED INCOME; AMENDING SECTION 15-30-131, MCA; AND
9 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY
10 DATE."

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

13 Section 1. Section 15-30-131, MCA, is amended to read:

14 "15-30-131. Nonresident and temporary resident
15 taxpayers -- adjusted gross income -- deductions. (1) In the
16 case of a taxpayer other than a resident of this state,
17 adjusted gross income includes the entire amount of adjusted
18 gross income from sources within this state but shall not
19 include income from annuities, interest on bank deposits,
20 interest on bonds, notes, or other interest-bearing
21 obligations, or dividends on stock of corporations except to
22 the extent to which the same shall be a part of income from
23 any business, trade, profession, or occupation carried on in
24 this state. Adjusted gross income from sources within and
25 without this state shall be allocated and apportioned under

1 rules prescribed by the department.

2 (2) In the case of a taxpayer other than a resident of
3 this state who is a resident of a state that imposes a tax
4 on the income of natural persons residing within that state,
5 the deductions allowed in computing net income are
6 restricted to those directly connected with the production
7 of Montana income.

8 (3) In the case of a taxpayer other than a resident of
9 this state who is a resident of a state that does not impose
10 a tax on the income of natural persons residing within that
11 state, the deductions allowed in computing net income are
12 restricted to the greater of those directly relating to the
13 production of Montana income or a prorated amount of those
14 allowed under 15-30-121. For the purposes of this
15 subsection, deductions allowed under 15-30-121 apply only to
16 earned income and must be prorated according to the ratio
17 that the taxpayer's Montana earned income bears to his
18 federal earned income.

19 (4) A temporary resident shall be allowed those
20 deductions and the credit under 15-32-109 allowed a resident
21 to the extent that such deductions or credit were actually
22 incurred or expended in the state of Montana during the
23 course of his residency.

24 (5) For the purposes of this section, "earned income"
25 shall be defined as the same term is defined in section 43

1 of the Internal Revenue Code, or as that section may
2 subsequently be amended, except that for the purposes of the
3 ratio in subsection (3), "earned income" shall include
4 income AND LOSSES from any corporation doing business in
5 Montana which has made a valid election under subchapter S
6 of chapter 1 of the Internal Revenue Code of 1954, as
7 amended.

8 (6) Notwithstanding the provisions of subsections (2)
9 and (3), any contribution made after December 31, 1982, to
10 the state of Montana or a political subdivision thereof
11 shall be an allowable deduction in computing net income.
12 The deduction is subject to the limitations set forth in
13 section 170 of the Internal Revenue Code of 1954, as labeled
14 or amended."

15 NEW SECTION. Section 2. Extension of authority. Any
16 existing authority of the department of revenue to make
17 rules on the subject of the provisions of this act is
18 extended to the provisions of this act.

19 NEW SECTION. Section 3. Effective date --
20 applicability date. This act is effective on passage and
21 approval and applies to tax years beginning after December
22 31, 1984.

-End-