

SENATE BILL NO. 464

INTRODUCED BY SEVERSON, TOWE, MAZUREK, HALLIGAN, LYBECK, HIRSCH,
GOODOVER, MCCALLUM, B. BROWN, ECK

BY REQUEST OF THE SENATE TAXATION COMMITTEE

IN THE SENATE

February 23, 1985	Introduced and referred to Committee on Taxation.
February 26, 1985	Fiscal Note requested.
February 27, 1985	Fiscal Note returned.
March 5, 1985	Committee recommend bill do pass. Report adopted.
March 6, 1985	Bill printed and placed on members' desks.
March 7, 1985	Second reading, do pass.
March 8, 1985	Considered correctly engrossed.
March 9, 1985	Third reading, passed. Ayes, 47; Noes, 0.
	Transmitted to House.

IN THE HOUSE

March 11, 1985	Introduced and referred to Committee on Taxation.
March 21, 1985	Committee recommend bill be concurrent in. Report adopted.
March 23, 1985	Second reading, concurred in.
March 26, 1985	Third reading, concurred in. Returned to Senate.

IN THE SENATE

March 26, 1985

Received from House.

March 27, 1985

Sent to enrolling.

Reported correctly enrolled.

1 Senate BILL NO. 7 *A 464*
 2 INTRODUCED BY *Saverson Dan* *Allyn Kelly*
 3 *Lybick* BY REQUEST OF THE SENATE TAXATION COMMITTEE *Est*
 4 *Thiel* *Goodwin* *McCallum* *Rob Brown*

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXCLUDE CERTAIN
 6 DISABILITY BENEFITS FROM ADJUSTED GROSS INCOME IN COMPUTING
 7 STATE INCOME TAX LIABILITY; AMENDING SECTION 15-30-111, MCA;
 8 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 1. Section 15-30-111, MCA, is amended to read:

13 "15-30-111. Adjusted gross income. (1) Adjusted gross
 14 income shall be the taxpayer's federal income tax adjusted
 15 gross income as defined in section 62 of the Internal
 16 Revenue Code of 1954 or as that section may be labeled or
 17 amended and in addition shall include the following:

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

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

24 (2) Notwithstanding the provisions of the federal
 25 Internal Revenue Code of 1954 as labeled or amended,

1 adjusted gross income does not include the following which
 2 are exempt from taxation under this chapter:

3 (a) all interest income from obligations of the United
 4 States government, the state of Montana, county,
 5 municipality, district, or other political subdivision
 6 thereof;

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

11 (c) all benefits received under the Federal Employees'
 12 Retirement Act not in excess of \$3,600;

13 (d) all benefits, not in excess of \$360, received as
 14 an annuity, pension, or endowment under any private or
 15 corporate retirement plan or system;

16 (e) all benefits paid under the teachers' retirement
 17 law which are specified as exempt from taxation by 19-4-706;

18 (f) all benefits paid under The Public Employees'
 19 Retirement System Act which are specified as exempt from
 20 taxation by 19-3-105;

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

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

25 (i) all benefits paid under 19-11-602, 19-11-604, and



1 19-11-605 to retired and disabled firefighters, their
2 surviving spouses and orphans;

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

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

8 (l) all tips covered by section 3402(k) of the
9 Internal Revenue Code of 1954, as amended and applicable on
10 January 1, 1983, received by persons for services rendered
11 by them to patrons of premises licensed to provide food,
12 beverage, or lodging.

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

1 subchapter S. election were not in effect.

2 (4) A shareholder of a DISC that is exempt from the
3 corporation license tax under 15-31-102(1)(1) shall include
4 in his adjusted gross income the earnings and profits of the
5 DISC in the same manner as provided by federal law (section
6 995, Internal Revenue Code) for all periods for which the
7 DISC election is effective.

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

20 (6) A taxpayer receiving retirement disability
21 benefits who has not attained age 65 by the end of the
22 taxable year and who has retired as permanently and totally
23 disabled may exclude from adjusted gross income up to \$100
24 per week received as wages or payments in lieu of wages for
25 a period during which the employee is absent from work due

1 to the disability. If the adjusted gross income before this
2 exclusion and before application of the two-earner married
3 couple deduction exceeds \$15,000, the excess reduces the
4 exclusion by an equal amount. This limitation affects the
5 amount of exclusion, but not the taxpayer's eligibility for
6 the exclusion. If eligible, married individuals shall apply
7 the exclusion separately, but the limitation for income
8 exceeding \$15,000 is determined with respect to the spouses
9 on their combined adjusted gross income. For the purpose of
10 this subsection, permanently and totally disabled means
11 unable to engage in any substantial gainful activity by
12 reason of any medically determined physical or mental
13 impairment lasting or expected to last at least 12 months.
14 (Subsection (2)(1) terminates on occurrence of
15 contingency--sec. 3, Ch. 634, L. 1983.)"

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

20 NEW SECTION. Section 3. Effective date --
21 applicability. This act is effective on passage and approval
22 and applies retroactively, within the meaning of 1-2-109, to
23 taxable years beginning after December 31, 1983.

-End-

STATE OF MONTANA
FISCAL NOTE

REQUEST NO. FNN508-85

Form BD-15

In compliance with a written request received February 26, 19 85, there is hereby submitted a Fiscal Note for S.B. 464 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 exclude certain disability benefits from adjusted gross income in computing state income tax liability.

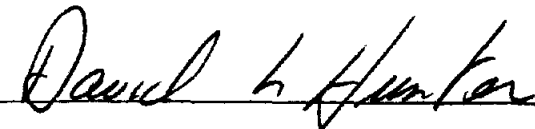
LONG-RANGE EFFECTS OF PROPOSED LEGISLATION

The proposed legislation would exclude from Montana adjusted gross income certain retirement disability benefits. Under current law disability retirement payments paid by the Veteran's Administration and any disability payments made pursuant to Worker's Compensation laws are already exempt from income. However, disability payments received in place of wages in situations where the employer paid for the policy are taxable. Allowing these benefits to qualify for the exclusion would reduce tax revenue by an estimated \$38,000 annually.

The U. S. Treasury Department proposal for tax reform recommends including all forms of disability compensation in adjusted gross income. If these proposals were to be implemented the effect of the proposed legislation would be to maintain the exemption for these items regardless of federal statutes.

CONFLICTS WITH OTHER PROPOSED LEGISLATION

HB518 proposes to exclude from adjusted gross income, among other things, all benefits paid under Worker's Compensation laws. If this bill is passed the reference to disability payments made under Worker's Compensation laws in SB464 would be redundant.



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 27, 1985

APPROVED BY COMMITTEE
ON TAXATION

1 Senate BILL NO. 7464
 2 INTRODUCED BY *Saverson Dan / Alquist / Kelly*
 3 *Sybil* BY REQUEST OF THE SENATE TAXATION COMMITTEE *Eck*
 4 *Richard Goodwin McCallum Rob Brown*

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXCLUDE CERTAIN
 6 DISABILITY BENEFITS FROM ADJUSTED GROSS INCOME IN COMPUTING
 7 STATE INCOME TAX LIABILITY; AMENDING SECTION 15-30-111, MCA;
 8 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
 9 APPLICABILITY DATE."

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

11 Section 1. Section 15-30-111, MCA, is amended to read:
 12 "15-30-111. Adjusted gross income. (1) Adjusted gross
 13 income shall be the taxpayer's federal income tax adjusted
 14 gross income as defined in section 62 of the Internal
 15 Revenue Code of 1954 or as that section may be labeled or
 16 amended and in addition shall include the following:

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

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

23 (2) Notwithstanding the provisions of the federal
 24 Internal Revenue Code of 1954 as labeled or amended,
 25

1 adjusted gross income does not include the following which
 2 are exempt from taxation under this chapter:

3 (a) all interest income from obligations of the United
 4 States government, the state of Montana, county,
 5 municipality, district, or other political subdivision
 6 thereof;

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

11 (c) all benefits received under the Federal Employees'
 12 Retirement Act not in excess of \$3,600;

13 (d) all benefits, not in excess of \$360, received as
 14 an annuity, pension, or endowment under any private or
 15 corporate retirement plan or system;

16 (e) all benefits paid under the teachers' retirement
 17 law which are specified as exempt from taxation by 19-4-706;

18 (f) all benefits paid under The Public Employees'
 19 Retirement System Act which are specified as exempt from
 20 taxation by 19-3-105;

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

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

25 (i) all benefits paid under 19-11-602, 19-11-604, and

1 19-11-605 to retired and disabled firefighters, their
2 surviving spouses and orphans;

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

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

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

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

1 subchapter S. election were not in effect.

2 (4) A shareholder of a DISC that is exempt from the
3 corporation license tax under 15-31-102(1)(1) shall include
4 in his adjusted gross income the earnings and profits of the
5 DISC in the same manner as provided by federal law (section
6 995, Internal Revenue Code) for all periods for which the
7 DISC election is effective.

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

20 (6) A taxpayer receiving retirement disability
21 benefits who has not attained age 65 by the end of the
22 taxable year and who has retired as permanently and totally
23 disabled may exclude from adjusted gross income up to \$100
24 per week received as wages or payments in lieu of wages for
25 a period during which the employee is absent from work due

1 to the disability. If the adjusted gross income before this
2 exclusion and before application of the two-earner married
3 couple deduction exceeds \$15,000, the excess reduces the
4 exclusion by an equal amount. This limitation affects the
5 amount of exclusion, but not the taxpayer's eligibility for
6 the exclusion. If eligible, married individuals shall apply
7 the exclusion separately, but the limitation for income
8 exceeding \$15,000 is determined with respect to the spouses
9 on their combined adjusted gross income. For the purpose of
10 this subsection, permanently and totally disabled means
11 unable to engage in any substantial gainful activity by
12 reason of any medically determined physical or mental
13 impairment lasting or expected to last at least 12 months.
14 (Subsection (2)(1) terminates on occurrence of
15 contingency--sec. 3, Ch. 634, L. 1983.)"

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

20 NEW SECTION. Section 3. Effective date --
21 applicability. This act is effective on passage and approval
22 and applies retroactively, within the meaning of 1-2-109, to
23 taxable years beginning after December 31, 1983.

-End-

1 Senate BILL NO. 464
 2 INTRODUCED BY *Saverson Dan / Mazuch Kellyn*
 3 *Sylvick* BY REQUEST OF THE SENATE TAXATION COMMITTEE *ech*
 4 *Thrick Gordon McCallum Rob Brown*

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXCLUDE CERTAIN
 6 DISABILITY BENEFITS FROM ADJUSTED GROSS INCOME IN COMPUTING
 7 STATE INCOME TAX LIABILITY; AMENDING SECTION 15-30-111, MCA;
 8 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 1. Section 15-30-111, MCA, is amended to read:
 13 "15-30-111. Adjusted gross income. (1) Adjusted gross
 14 income shall be the taxpayer's federal income tax adjusted
 15 gross income as defined in section 62 of the Internal
 16 Revenue Code of 1954 or as that section may be labeled or
 17 amended and in addition shall include the following:

- 18 (a) interest received on obligations of another state
- 19 or territory or county, municipality, district, or other
- 20 political subdivision thereof;
- 21 (b) refunds received of federal income tax, to the
- 22 extent the deduction of such tax resulted in a reduction of
- 23 Montana income tax liability.
- 24 (2) Notwithstanding the provisions of the federal
- 25 Internal Revenue Code of 1954 as labeled or amended,

1 adjusted gross income does not include the following which
 2 are exempt from taxation under this chapter:

- 3 (a) all interest income from obligations of the United
- 4 States government, the state of Montana, county,
- 5 municipality, district, or other political subdivision
- 6 thereof;
- 7 (b) interest income earned by a taxpayer age 65 or
- 8 older in a taxable year up to and including \$800 for a
- 9 taxpayer filing a separate return and \$1,600 for each joint
- 10 return;
- 11 (c) all benefits received under the Federal Employees'
- 12 Retirement Act not in excess of \$3,600;
- 13 (d) all benefits, not in excess of \$360, received as
- 14 an annuity, pension, or endowment under any private or
- 15 corporate retirement plan or system;
- 16 (e) all benefits paid under the teachers' retirement
- 17 law which are specified as exempt from taxation by 19-4-706;
- 18 (f) all benefits paid under The Public Employees'
- 19 Retirement System Act which are specified as exempt from
- 20 taxation by 19-3-105;
- 21 (g) all benefits paid under the highway patrol
- 22 retirement law which are specified as exempt from taxation
- 23 by 19-6-705;
- 24 (h) all Montana income tax refunds or credits thereof;
- 25 (i) all benefits paid under 19-11-602, 19-11-604, and



1 19-11-605 to retired and disabled firefighters, their
2 surviving spouses and orphans;

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

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

8 (l) all tips covered by section 3402(k) of the
9 Internal Revenue Code of 1954, as amended and applicable on
10 January 1, 1983, received by persons for services rendered
11 by them to patrons of premises licensed to provide food,
12 beverage, or lodging.

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

1 subchapter S. election were not in effect.

2 (4) A shareholder of a DISC that is exempt from the
3 corporation license tax under 15-31-102(1)(1) shall include
4 in his adjusted gross income the earnings and profits of the
5 DISC in the same manner as provided by federal law (section
6 995, Internal Revenue Code) for all periods for which the
7 DISC election is effective.

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

20 (6) A taxpayer receiving retirement disability
21 benefits who has not attained age 65 by the end of the
22 taxable year and who has retired as permanently and totally
23 disabled may exclude from adjusted gross income up to \$100
24 per week received as wages or payments in lieu of wages for
25 a period during which the employee is absent from work due

1 to the disability. If the adjusted gross income before this
2 exclusion and before application of the two-earner married
3 couple deduction exceeds \$15,000, the excess reduces the
4 exclusion by an equal amount. This limitation affects the
5 amount of exclusion, but not the taxpayer's eligibility for
6 the exclusion. If eligible, married individuals shall apply
7 the exclusion separately, but the limitation for income
8 exceeding \$15,000 is determined with respect to the spouses
9 on their combined adjusted gross income. For the purpose of
10 this subsection, permanently and totally disabled means
11 unable to engage in any substantial gainful activity by
12 reason of any medically determined physical or mental
13 impairment lasting or expected to last at least 12 months.
14 (Subsection (2)(1) terminates on occurrence of
15 contingency--sec. 3, Ch. 634, L. 1983.)"

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

20 NEW SECTION. Section 3. Effective date --
21 applicability. This act is effective on passage and approval
22 and applies retroactively, within the meaning of 1-2-109, to
23 taxable years beginning after December 31, 1983.

-End-

1 SENATE BILL NO. 464

2 INTRODUCED BY SEVERSON, TOWE, MAZUREK,

3 HALLIGAN, LYBECK, HIRSCH, GOODOVER,

4 MCCALLUM, B. BROWN, ECK

5 BY REQUEST OF THE SENATE TAXATION COMMITTEE

6
7 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXCLUDE CERTAIN
8 DISABILITY BENEFITS FROM ADJUSTED GROSS INCOME IN COMPUTING
9 STATE INCOME TAX LIABILITY; AMENDING SECTION 15-30-111, MCA;
10 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
11 APPLICABILITY DATE."
12

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

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

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

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

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

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 exempt 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;

15 (d) all benefits, not in excess of \$360, received as
16 an annuity, pension, or endowment under any private or
17 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;

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 (l) all tips covered by section 3402(k) of the
 11 Internal Revenue Code of 1954, as amended and applicable on
 12 January 1, 1983, received by persons for services rendered
 13 by them to patrons of premises licensed to provide food,
 14 beverage, or lodging.
 15 (3) In the case of a shareholder of a corporation with
 16 respect to which the election provided for under subchapter
 17 S. of the Internal Revenue Code of 1954, as amended, is in
 18 effect but with respect to which the election provided for
 19 under 15-31-202, as amended, is not in effect, adjusted
 20 gross income does not include any part of the corporation's
 21 undistributed taxable income, net operating loss, capital
 22 gains or other gains, profits, or losses required to be
 23 included in the shareholder's federal income tax adjusted
 24 gross income by reason of the said election under subchapter
 25 S. However, the shareholder's adjusted gross income shall

1 include actual distributions from the corporation to the
 2 extent they would be treated as taxable dividends if the
 3 subchapter S. election were not in effect.
 4 (4) A shareholder of a DISC that is exempt from the
 5 corporation license tax under 15-31-102(1)(1) shall include
 6 in his adjusted gross income the earnings and profits of the
 7 DISC in the same manner as provided by federal law (section
 8 995, Internal Revenue Code) for all periods for which the
 9 DISC election is effective.
 10 (5) A taxpayer who, in determining federal adjusted
 11 gross income, has reduced his business deductions by an
 12 amount for wages and salaries for which a federal tax credit
 13 was elected under section 44B of the Internal Revenue Code
 14 of 1954 or as that section may be labeled or amended is
 15 allowed to deduct the amount of such wages and salaries paid
 16 regardless of the credit taken. The deduction must be made
 17 in the year the wages and salaries were used to compute the
 18 credit. In the case of a partnership or small business
 19 corporation, the deduction must be made to determine the
 20 amount of income or loss of the partnership or small
 21 business corporation.
 22 (6) A taxpayer receiving retirement disability
 23 benefits who has not attained age 65 by the end of the
 24 taxable year and who has retired as permanently and totally
 25 disabled may exclude from adjusted gross income up to \$100

1 per week received as wages or payments in lieu of wages for
2 a period during which the employee is absent from work due
3 to the disability. If the adjusted gross income before this
4 exclusion and before application of the two-earner married
5 couple deduction exceeds \$15,000, the excess reduces the
6 exclusion by an equal amount. This limitation affects the
7 amount of exclusion, but not the taxpayer's eligibility for
8 the exclusion. If eligible, married individuals shall apply
9 the exclusion separately, but the limitation for income
10 exceeding \$15,000 is determined with respect to the spouses
11 on their combined adjusted gross income. For the purpose of
12 this subsection, permanently and totally disabled means
13 unable to engage in any substantial gainful activity by
14 reason of any medically determined physical or mental
15 impairment lasting or expected to last at least 12 months.
16 (Subsection (2)(1) terminates on occurrence of
17 contingency--sec. 3, Ch. 634, L. 1983.)"

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

22 NEW SECTION. Section 3. Effective date --
23 applicability. This act is effective on passage and approval
24 and applies retroactively, within the meaning of 1-2-109, to
25 taxable years beginning after December 31, 1983.