

SENATE BILL 27

Introduced by Rapp-Svrcek, et al.

6/27	Introduced
6/27	Referred to Taxation
6/28	Hearing
6/28	Fiscal Note Requested
7/06	Fiscal Note Received
7/11	Fiscal Note Printed
	Died in Committee

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INTRODUCED BY *Senate* BILL NO. *27*  
*Clarko* *Raney* *Allett* *Quinn* *Wright*

A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING A TAX ON CERTAIN CORPORATE STOCKS AND BONDS; EXEMPTING STOCKS OF MONTANA CORPORATIONS; PRORATING THE TAX ON STOCKS OF A FOREIGN CORPORATION ACCORDING TO THE PERCENTAGE ITS MONTANA OPERATIONS BEAR TO ITS TOTAL OPERATIONS; ALLOCATING PROCEEDS OF THE TAX TO THE WORKERS' COMPENSATION TAX ACCOUNT TO REDUCE THE UNFUNDED LIABILITY IN THE STATE COMPENSATION MUTUAL INSURANCE FUND; AMENDING SECTION 39-71-2504, MCA; REPEALING SECTION 15-31-703, MCA; AND PROVIDING AN EFFECTIVE DATE, A TERMINATION DATE, AND A RETROACTIVE APPLICABILITY DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 4] directs the department of revenue to adopt rules, prescribe forms for returns and notices, and require the reporting of information considered by the department to be necessary.

It is the intent of the legislature that the department adopt rules that would strengthen the enforcement ability of the department in identifying taxpayers liable for the tax on corporate stocks and bonds. When this type of intangible

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asset was subject to taxation before the exemption granted in the early 1970s, the lack of uniform reporting and taxation was one of the major criticisms of the tax.

It is the intent of the legislature to implement this bill so that the tax is fairly and uniformly enforced throughout the state.

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

NEW SECTION. **Section 1.** Annual tax on corporate stocks and bonds -- exemptions. (1) Except as provided in subsection (2), there is imposed on corporate stocks and bonds specified in this section and owned or held as provided in [section 2] as of January 1 of each year, a tax of 50 cents on every \$100 of the actual market value of the stocks and bonds on that date.

(2) Corporate stocks and bonds subject to the tax imposed by this section are those listed on the New York stock exchange, the American stock exchange, the Pacific stock exchange, the Midwest stock exchange, or any other stock exchange registered with the federal securities and exchange commission and approved by the securities commissioner of this state and those traded over the counter through the national association of securities dealers automated quotation (NASDAQ) system operated by the national association of securities dealers, inc.

1 (3) (a) The tax imposed in this section does not apply  
2 to:

3 (i) the first \$10,000 of the value of the stocks and  
4 bonds otherwise subject to the tax imposed by this section.  
5 A husband and wife filing jointly may exempt the first  
6 \$20,000 of the value.

7 (ii) United States bonds;

8 (iii) any stock or bond held as an investment under any  
9 retirement, pension, or profit-sharing plan exempt from  
10 taxation under the Internal Revenue Code, as amended;

11 (iv) any stock or bond exempt from taxation under  
12 15-6-204; or

13 (v) any stock of a corporation operating entirely  
14 within the state.

15 (b) Stocks of corporations deriving income from within  
16 and outside the state are taxable on a pro rata basis  
17 according to the percent of the corporation's net income  
18 derived outside the state. Parent and subsidiary  
19 corporations are considered as separate and distinct legal  
20 entities, and the fact that a subsidiary corporation pays  
21 state franchise, property, or income taxes does not affect  
22 the taxability of shares of stock of the parent corporation.

23 NEW SECTION. Section 2. When taxes due -- attachment  
24 of lien -- tax return. (1) Taxes imposed by [section 1] are  
25 due and payable on September 30 of each year, and the lien

1 for taxes attaches annually to all real estate of the  
2 taxpayer within this state as of the date that taxes are  
3 due, regardless of the time at which the liability for the  
4 tax arises or the exact amount of tax liability is  
5 determined. The lien continues until the taxes, together  
6 with any penalty and costs accrued on the taxes, have been  
7 paid.

8 (2) Each person, firm, association, partnership,  
9 corporation, guardian, trustee, executor, administrator,  
10 personal representative, receiver, or other fiduciary  
11 resident of or domiciled in Montana and owning or holding  
12 any corporate stock or bond, either as principal or agent,  
13 is liable for payment of the tax imposed in [section 1] and  
14 shall deliver to the department of revenue, on a form  
15 prescribed by the department, an accurate and complete  
16 return of tax liability, together with the total amount of  
17 tax due, by September 30 of each year. A fiduciary holding  
18 or controlling stocks or bonds subject to the tax is  
19 personally liable for payment of the tax.

20 (3) This section does not relieve an estate held in  
21 trust or under the control of a fiduciary from the lien for  
22 the tax.

23 NEW SECTION. Section 3. Reports required. (1) Each  
24 domestic or foreign corporation, the stock or bonds of which  
25 are owned or held by persons or entities resident of or

1 domiciled in Montana, as provided in [section 2], shall  
 2 report by September 30 of each year, on a form prescribed by  
 3 the department of revenue, the name and address of each  
 4 registered stockholder or bondholder resident of or  
 5 domiciled in Montana as of the preceding January 1. The  
 6 report must also include the number of shares of stock held,  
 7 the number of bonds held, the par or face value of each, the  
 8 market value of each as of January 1, and any other  
 9 information the department requires.

10 (2) In addition, each person registered as a  
 11 broker-dealer or salesman, as required by 30-10-201, shall  
 12 report to the department of revenue by March 31 of each year  
 13 a list of each share of stock and each bond owned by each of  
 14 his customers or clients on the previous January 1. The  
 15 report must include the par or face value and the actual  
 16 market value of each share of stock and each bond held by  
 17 each customer or client on January 1 and any other  
 18 information the department requires.

19 NEW SECTION. Section 4. Duties of department --  
 20 rulemaking. The department of revenue shall adopt rules,  
 21 prescribe forms for returns and notices, and require the  
 22 information to be reported as it considers necessary to  
 23 enforce the provisions of [sections 1 through 6].

24 NEW SECTION. Section 5. Penalty. (1) If a person or  
 25 entity fails to file a return as required by or in the

1 manner provided in [section 2] or fails to pay the tax  
 2 imposed by [section 1], there is imposed a penalty of 5% of  
 3 any balance of tax unpaid with respect to the return as of  
 4 its due date. If a person or any member or employee of the  
 5 entity acts purposely and knowingly with intent to evade the  
 6 requirements of [sections 1 through 6], that person is  
 7 guilty of a misdemeanor and is punishable by a fine not to  
 8 exceed \$1,000 or imprisonment not to exceed 1 year, or both.

9 (2) A person or entity failing to report information  
 10 under [section 3] when required to do so is guilty of a  
 11 misdemeanor and is punishable by a fine not to exceed \$500  
 12 or imprisonment not to exceed 6 months, or both.

13 NEW SECTION. Section 6. Allocation and deposit of  
 14 tax. Taxes assessed and collected under [sections 1 and 2]  
 15 are allocated to and must be deposited in the workers'  
 16 compensation tax account, established in 39-71-2504, for the  
 17 purpose of reducing the unfunded liability in the state  
 18 compensation mutual insurance fund.

19 Section 7. Section 39-71-2504, MCA, is amended to  
 20 read:

21 "39-71-2504. (Temporary) Workers' compensation tax  
 22 account. (1) There is ~~an~~ a workers' compensation tax account  
 23 in the state special revenue fund. The account consists of:

24 (a) All all collections of the tax and, including  
 25 interest and penalties on the tax ~~must-be-deposited-in-the~~

1 ~~account-and-are; and~~

2 (b) all collections of the tax on certain stocks and  
3 bonds, as provided in [section 1].

4 (2) All money in the tax account is statutorily  
5 appropriated, as provided in 17-7-502, to the department to  
6 be used to reduce the unfunded liability in the state fund.  
7 (Terminates June 30, 1991--sec. 10, Ch. 664, L. 1987.)"

8 NEW SECTION. Section 8. Repealer. Section 15-31-703,  
9 MCA, is repealed.

10 NEW SECTION. Section 9. Codification instruction.  
11 [Sections 1 through 6] are intended to be codified as an  
12 integral part of Title 15, and the provisions of Title 15  
13 apply to [sections 1 through 6].

14 NEW SECTION. Section 10. Retroactive applicability.  
15 [This act] applies retroactively, within the meaning of  
16 1-2-109, to taxable years beginning after December 31, 1989.

17 NEW SECTION. Section 11. Effective date. [This act]  
18 is effective July 1, 1989, and if signed by the governor or  
19 becomes law under 5-4-307 after July 1, 1989, is effective  
20 retroactively, within the meaning of 1-2-109, to July 1,  
21 1989.

22 NEW SECTION. Section 12. Termination. [This act]  
23 terminates June 30, 1991.

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