

HOUSE BILL NO. 297

INTRODUCED BY MCCARTHY
BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE HOUSE

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| JANUARY 21, 1993 | INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION. |
| | FIRST READING. |
| JANUARY 28, 1993 | COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED. |
| JANUARY 29, 1993 | PRINTING REPORT. |
| JANUARY 30, 1993 | SECOND READING, DO PASS. |
| FEBRUARY 1, 1993 | ENGROSSING REPORT. |
| FEBRUARY 3, 1993 | THIRD READING, PASSED. AYES, 88; NOES, 11. |
| FEBRUARY 4, 1993 | TRANSMITTED TO SENATE. |

IN THE SENATE

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| FEBRUARY 4, 1993 | INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION. |
| | FIRST READING. |
| MARCH 1, 1993 | COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED. |
| MARCH 2, 1993 | SECOND READING, CONCURRED IN. |
| MARCH 3, 1993 | THIRD READING, CONCURRED IN. AYES, 48; NOES, 0. |
| | RETURNED TO HOUSE. |

IN THE HOUSE

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| MARCH 4, 1993 | RECEIVED FROM SENATE. |
| | SENT TO ENROLLING. |
| | REPORTED CORRECTLY ENROLLED. |

1 House BILL NO. 297
 2 INTRODUCED BY Sen. Mike Carls
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE CAPITAL
 6 GAIN EXCLUSION FROM TRUST AND ESTATE TAXABLE INCOME TO MAKE
 7 MONTANA INDIVIDUAL AND TRUST TAXABLE INCOME STATUTES
 8 CONSISTENT; AMENDING SECTION 15-30-136, MCA; AND PROVIDING
 9 AN APPLICABILITY DATE."

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

12 **Section 1.** Section 15-30-136, MCA, is amended to read:

13 "15-30-136. Computation of income of estates or trusts
 14 -- exemption. (1) Except as otherwise provided in this
 15 chapter, "gross income" of estates or trusts means all
 16 income from whatever source derived in the taxable year,
 17 including but not limited to the following items:

18 (a) dividends;

19 (b) interest received or accrued, including interest
 20 received on obligations of another state or territory or a
 21 county, municipality, district, or other political
 22 subdivision thereof of the state, but excluding interest
 23 income from obligations of:

24 (i) the United States government or the state of
 25 Montana;

1 (ii) a school district; or
 2 (iii) a county, municipality, district, or other
 3 political subdivision of the state;
 4 (c) income from partnerships and other fiduciaries;
 5 (d) gross rents and royalties;
 6 (e) gain from sale or exchange of property, including
 7 those gains that are excluded from gross income for federal
 8 fiduciary income tax purposes by section 641(c) of the
 9 Internal Revenue Code of 1954, as amended;
 10 (f) gross profit from trade or business; and
 11 (g) refunds recovered on federal income tax, to the
 12 extent the deduction of such the tax resulted in a reduction
 13 of Montana income tax liability.
 14 (2) In computing net income, there are allowed as
 15 deductions:
 16 (a) interest expenses deductible for federal tax
 17 purposes according to section 163 of the Internal Revenue
 18 Code of 1954, as amended;
 19 (b) taxes paid or accrued within the taxable year,
 20 including but not limited to federal income tax, but
 21 excluding Montana income tax;
 22 (c) that fiduciary's portion of depreciation or
 23 depletion which is deductible for federal tax purposes
 24 according to sections 167, 611, and 642 of the Internal
 25 Revenue Code of 1954, as amended;

(d) charitable contributions that are deductible for federal tax purposes according to section 642(c) of the Internal Revenue Code of 1954, as amended;

(e) administrative expenses claimed for federal income tax purposes, according to sections 212 and 642(g) of the Internal Revenue Code of 1954, as amended, if such the expenses were not claimed as a deduction in the determination of Montana inheritance tax;

(f) losses from fire, storm, shipwreck, or other casualty or from theft, to the extent not compensated for by insurance or otherwise, that are deductible for federal tax purposes according to section 165 of the Internal Revenue Code of 1954, as amended;

(g) net operating loss deductions allowed for federal income tax under section 642(d) of the Internal Revenue Code of 1954, as amended, except estates may not claim losses that are deductible on the decedent's final return;

(h) Montana income tax refunds or tax refund credits.

(3) The following additional deductions ~~shall--be~~ are allowed in deriving taxable income of estates and trusts:

(a) any amount of income for the taxable year currently required to be distributed to beneficiaries for such the year;

(b) any other amounts properly paid or credited or required to be distributed for the taxable year.

~~(c)--the--amount--of--60%--of--the--excess--of--the--net long-term--capital--gain--over--the--net--short-term--capital--loss for--the--taxable--year;~~

(4) The exemption allowed for estates and trusts is that exemption provided in 15-30-112(2)(a) and (6)."

NEW SECTION. **Section 2. Applicability -- rulemaking.**

(1) [This act] applies to tax years beginning after December 31, 1993.

(2) The department of revenue may institute rulemaking under Title 2, chapter 4, to implement [this act] prior to October 1, 1993, but the rules may not be effective prior to October 1, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0297, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act removing the capital gain exclusion from trust and estate taxable income to make Montana individual and trust taxable income statutes consistent; providing an applicability date.

FISCAL IMPACT:

There will be a minimal negative revenue impact in FY94 and FY95.

David Lewis 1-25-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Bea McCarthy
BEA MCCARTHY, PRIMARY SPONSOR DATE

Fiscal Note for HB0297, as introduced

HB 297

APPROVED BY COMMITTEE
ON TAXATION

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3 ~~for-the-taxable-year.~~

4 (4) The exemption allowed for estates and trusts is
5 that exemption provided in 15-30-112(2)(a) and (6)."

6 NEW SECTION. **Section 2.** Applicability -- rulemaking.

7 (1) [This act] applies to tax years beginning after December
8 31, 1993.

9 (2) The department of revenue may institute rulemaking
10 under Title 2, chapter 4, to implement [this act] prior to
11 October 1, 1993, but the rules may not be effective prior to
12 October 1, 1993.

-End-