

SENATE BILL NO. 227

INTRODUCED BY STANG
BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE SENATE

JANUARY 21, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
JANUARY 29, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 30, 1993	PRINTING REPORT.
	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
FEBRUARY 1, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
FEBRUARY 2, 1993	SECOND READING, DO PASS.
FEBRUARY 3, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 47; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 4, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
FEBRUARY 9, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 2, 1993	SECOND READING, CONCURRED IN.
MARCH 5, 1993	THIRD READING, CONCURRED IN. AYES, 99; NOES, 0.
	RETURNED TO SENATE.

IN THE SENATE

MARCH 8, 1993

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 227
 2 INTRODUCED BY Thang
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE PAYMENT
 6 OF ESTIMATED CORPORATION LICENSE OR INCOME TAX; AMENDING
 7 SECTIONS 15-31-502, 15-31-510, AND 87-2-903, MCA; AND
 8 PROVIDING AN APPLICABILITY DATE."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 15-31-502, MCA, is amended to read:

12 "15-31-502. Assessment and payment of tax -- estimated
 13 tax payment -- amount of required installments. (1) All
 14 taxpayers shall compute the amount of tax payable under this
 15 chapter and shall remit the amount to the department of
 16 revenue on or before the 15th day of the 5th month following
 17 the close of the taxable period.

18 (2) (a) Each corporation shall make estimated tax
 19 payments if its annual estimated tax can reasonably be
 20 expected to be is \$5,000 or more. The estimated payments
 21 must be made in installments, as follows:

22 (a) -- if if the \$5,000 threshold is met or exceeded:

23 The following percentages of the estimated tax must be
 24 paid on the 15th day of the applicable months:

25 - 4th 6th 9th 12th

1 -	month	month	month	month
2 Before the 1st day of the				
3 4th month of the taxable				
4 year:	25%	25%	25%	25%
5 After the last day of the				
6 3rd month and before the				
7 1st day of the 6th month of				
8 the taxable year:	-	33-1/3%	33-1/3%	33-1/3%
9 After the last day of the				
10 5th month and before the				
11 1st day of the 9th month of				
12 the taxable year:	-	-	50%	50%
13 After the last day of the				
14 8th month and before the				
15 12th month of the taxable				
16 year:	-	-	-	100%

17 (i) For a corporation taxed on a calendar-year basis:

18 For the following required installments the due date is:

19 1st.....April 15

20 2nd.....June 15

21 3rd.....September 15

22 4th.....December 15

23 (ii) for a corporation taxed on a fiscal-year basis:

24 For the following required installments the due date is:

25 1st.....15th day of the 4th month

1 2nd.....15th day of the 6th month
 2 3rd.....15th day of the 9th month
 3 4th.....15th day of the 12th month

4 (b) If--after--paying--any--installment--of--estimated--tax
 5 the--taxpayer--makes--a--new--estimate,--the--amount--of--each
 6 installment,--if--any,--is--the--amount--that--would--have--been--paid
 7 if--the--new--estimate--had--been--made--when--the--first--estimate
 8 for--the--taxable--year--was--made,--increased--or--decreased,--as
 9 the--case--may--be,--by--the--amount--computed--by--dividing:

10 {i}--the--difference--between:

11 {A}--the--amount--of--estimated--tax--required--to--be--paid
 12 before--the--date--on--which--the--new--estimate--was--made;--and

13 {B}--the--amount--of--estimated--tax--that--would--have--been
 14 required--to--be--paid--before--that--date--if--the--new--estimate--had
 15 been--made--when--the--first--estimate--was--made:

16 {ii}--by--the--number--of--installments--remaining--to--be--paid
 17 on--or--after--the--date--on--which--the--new--estimate--was--made.

18 Except as provided in 15-31-510, the amount of any required
 19 installment is 25% of the required annual payment. The
 20 required annual payment is the lesser of:

21 (i) 80% of the tax shown on the return for the taxable
 22 year or, if a return is not filed, 80% of the tax for that
 23 year; or

24 (ii) 100% of the tax shown on the return of the
 25 corporation for the preceding taxable year if the preceding

1 taxable year was a period of 12 months and if the
 2 corporation filed a return for that year.

3 (3) The application of this section to taxable years of
 4 less than 12 months must be in accordance with rules adopted
 5 by the department.

6 (4) At the election of the corporation, any installment
 7 of the estimated tax may be paid before the date prescribed
 8 for its payment."

9 **Section 2.** Section 15-31-510, MCA, is amended to read:

10 "15-31-510. Estimated payments -- interest penalty --
 11 tax returns -- penalty -- interest. (1) For corporations
 12 failing to make estimated payments according to the schedule
 13 provided in 15-31-502(2), there is assessed a 20% per annum
 14 year underpayment interest penalty calculated as follows:

15 (a) For purposes of this subsection (a), the amount of
 16 underpayment is in-excess-of the amount of the required
 17 installment that--would--be--required--to--be--paid--if--the
 18 estimated-tax-were-equal-to-80%--of--the--tax--shown--on--the
 19 return--for--the--taxable--year--or,--if--no--return--was--filed,--80%
 20 of-the-tax-for-the-year set forth in 15-31-502 over that
 21 exceeds the amount, if any, of the installment paid on or
 22 before the last date prescribed for payment.

23 (b) Notwithstanding the provisions of subsection
 24 (1)(a), the interest penalty with respect to an underpayment
 25 of any installment may not be imposed if the total amount of

1 all payments of estimated tax made on or before the last
 2 date prescribed for the payment of the installment equals or
 3 exceeds the amount that would have been required to be paid
 4 on or before that date if the estimated tax were the lesser
 5 of the following:

6 ~~{i}--the tax shown on the return of the corporation--for~~
 7 ~~the preceding taxable year if a return showing a liability~~
 8 ~~for tax was filed for the preceding taxable year--and--the~~
 9 ~~preceding year was a taxable year of 12 months;~~

10 ~~{ii}--an amount equal--to the tax computed at the rates~~
 11 ~~applicable to the taxable year, but otherwise on--the--basis~~
 12 ~~of the facts shown on the return of the corporation for, and~~
 13 ~~the law applicable to, the preceding taxable year; or~~

14 ~~{iii} an amount equal to 80% of the tax for the taxable~~
 15 ~~year, computed by placing on an annualized basis the taxable~~
 16 ~~income:~~

17 ~~{A}{i}~~ for the first 3 months of the taxable year in
 18 the case of the installment required to be paid in the 4th
 19 month;

20 ~~{B}{ii}~~ for the first 3 months or for the first 5 months
 21 of the taxable year in the case of the installment required
 22 to be paid in the 6th month;

23 ~~{E}{iii}~~ for the first 6 months or for the first 8
 24 months of the taxable year in the case of the installment
 25 required to be paid in the 9th month; and

1 ~~{B}{iv}~~ for the first 9 months or for the first 11
 2 months of the taxable year in the case of the installment
 3 required to be paid in the 12th month of the taxable year.

4 (c) For purposes of subsection (1)(b)~~{iii}~~, the taxable
 5 income must be placed on an annualized basis by:

6 (i) multiplying by 12 the taxable income referred to in
 7 subsection (1)(b)~~{iii}~~; and

8 (ii) dividing the resulting amount by the number of
 9 months in the taxable year (3, 5, 6, 8, 9, or 11, as the
 10 case may be) referred to in subsection (1)(b)~~{iii}~~.

11 (d) Notwithstanding subsections (1)(a) through (1)(c),
 12 the interest penalty with respect to an underpayment of any
 13 installment may not be imposed if the total amount of all
 14 payments of estimated tax made on or before the last date
 15 prescribed for the payment of the installment equals or
 16 exceeds 80% of the amount determined under subsection
 17 (1)(e).

18 (e) To determine the amount under this subsection (e)
 19 for any installment:

20 (i) take the taxable income for all months during the
 21 taxable year preceding the filing month;

22 (ii) divide the amount by the base period percentage for
 23 all months during the taxable year preceding the filing
 24 month;

25 (iii) determine the tax on the amount calculated under

1 subsection (1)(e)(ii); and

2 (iv) multiply the tax computed under subsection
3 (1)(e)(iii) by the base period percentage for the filing
4 month and all months during the taxable year preceding the
5 filing month.

6 (f) For purposes of this subsection (1):

7 (i) the base period percentage for any period of months
8 is the average percentage that the taxable income for the
9 corresponding months in each of the 3 preceding taxable
10 years bears to the taxable income of the 3 preceding years;

11 (ii) the term "filing month" means the month in which
12 the installment is required to be paid;

13 (iii) this subsection (1) applies only if the base
14 period percentage for any 6 consecutive months of the
15 taxable year equals or exceeds 70%; and

16 (iv) the department of revenue may by rule provide for
17 the determination of the base period percentage in the case
18 of reorganizations, new corporations, and other similar
19 circumstances.

20 (2) If the tax for any corporation is not paid on or
21 before the due date of the return as provided in
22 15-31-111(2), there is assessed a penalty of 10% of the
23 amount of the tax due, unless it is shown that the failure
24 was due to reasonable cause and not to neglect.

25 (3) If any tax due under this section is not paid when

1 due, by reason of extension granted or otherwise, interest
2 is added to the tax due at the rate of 12% a year from the
3 due date until paid."

4 **Section 3.** Section 87-2-903, MCA, is amended to read:

5 "87-2-903. Compensation and duties of agents -- penalty
6 for late submission of license money. (1) License agents,
7 except salaried employees of the department, ~~shall~~ must
8 receive for all services rendered the sum of ~~40--cents--for~~
9 ~~the--1992--license--year--and~~ 50 cents thereafter for each
10 license, permit, or certificate issued. Each license agent
11 shall submit to the department all duplicates of each class
12 of licenses sold and shall accompany the duplicate licenses
13 with all moneys money received for the sale of the licenses,
14 less the appropriate fee. The department may designate
15 classes of license agents and may establish a deadline for
16 submission of license money by each class of agent. Each
17 license agent shall keep ~~his~~ the license account open at all
18 reasonable hours to inspection by the department, the
19 director, the wardens, or the legislative auditor.

20 (2) For purposes of this section, the term "license"
21 includes any license, permit, and certificate prescribed by
22 the department.

23 (3) If a license agent fails to submit to the
24 department all money received from the declared sale of
25 licenses, less the appropriate fee, by the deadline

1 established by the department, an interest charge equal to
2 the rate charged on late corporation license tax payments
3 under ~~15-31-502~~ 15-31-510(2) must be assessed. Acceptance of
4 late payments with interest does not preclude the department
5 from summarily revoking the appointment of a license agent
6 under 87-2-904."

7 **NEW SECTION. Section 4. Applicability -- rulemaking.**

8 (1) [This act] applies to tax years beginning after December
9 31, 1993.

10 (2) The department of revenue may institute rulemaking
11 under Title 2, chapter 4, to implement [this act] prior to
12 October 1, 1993, but the rules may not be effective prior to
13 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 SB0227, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act clarifying the payment of estimated corporation license or income tax; and providing an applicability date.

FISCAL IMPACT:

Expenditures:

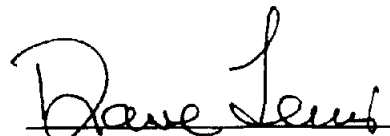
There is no impact to Department expenditures under the proposed legislation.

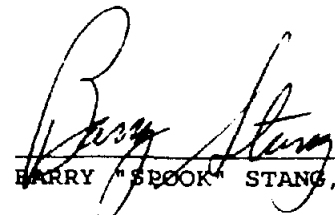
Revenues:

The Department believes there may be a minor one-time increase in revenue due to the new estimated payment schedules. However, the purpose of the bill is to clarify the statute to improve compliance and will therefore reduce penalty and interest collections.

Net Impact:

The data to accurately determine the net impact is not available, however, any impact is believed to be minor.

 1-23-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1/26/93
BARRY "SPROCK" STANG, PRIMARY SPONSOR DATE
Fiscal Note for SB0227, as introduced.
SB 227

APPROVED BY COMMITTEE
ON TAXATION

1 *Senate* BILL NO. 227
2 INTRODUCED BY *Thang*
3 BY REQUEST OF THE DEPARTMENT OF REVENUE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE PAYMENT
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8 PROVIDING AN APPLICABILITY DATE."
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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 15-31-502, MCA, is amended to read:

12 "15-31-502. **Assessment and payment of tax -- estimated**
13 **tax payment -- amount of required installments.** (1) All
14 taxpayers shall compute the amount of tax payable under this
15 chapter and shall remit the amount to the department of
16 revenue on or before the 15th day of the 5th month following
17 the close of the taxable period.

18 (2) (a) Each corporation shall make estimated tax
19 payments if its annual estimated tax ~~can reasonably be~~
20 ~~expected to be~~ is \$5,000 or more. The estimated payments
21 must be made in installments, as follows:

22 (a) --if if the \$5,000 threshold is met or exceeded:

23 The--following--percentages-of-the-estimated-tax-must-be
24 paid-on-the-15th-day-of-the-applicable-months:

25 - 4th 6th 9th 12th

	month	month	month	month
1 -				
2 Before-the-1st-day--of--the				
3 4th--month--of--the-taxable				
4 year:	25%	25%	25%	25%
5 After-the-last-day--of--the				
6 3rd--month--and--before-the				
7 1st-day-of-the-6th-month-of				
8 the-taxable-year:	-	33-1/3%	33-1/3%	33-1/3%
9 After-the-last-day--of--the				
10 5th--month--and--before-the				
11 1st-day-of-the-9th-month-of				
12 the-taxable-year:	-	-	50%	50%
13 After-the-last-day--of--the				
14 8th--month--and--before-the				
15 12th-month-of--the--taxable				
16 year:	-	-	-	100%
17 (i) For a corporation taxed on a calendar-year basis:				
18 For the following required installments the due date is:				
19 1st.....				April 15
20 2nd.....				June 15
21 3rd.....				September 15
22 4th.....				December 15
23 (ii) for a corporation taxed on a fiscal-year basis:				
24 For the following required installments the due date is:				
25 1st.....				15th day of the 4th month

2nd.....15th day of the 6th month
 3rd.....15th day of the 9th month
 4th.....15th day of the 12th month

(b) If--after--paying--any--installment--of--estimated--tax
 the--taxpayer--makes--a--new--estimate,--the--amount--of--each
 installment,--if--any,--is--the--amount--that--would--have--been--paid
 if--the--new--estimate--had--been--made--when--the--first--estimate
 for--the--taxable--year--was--made,--increased--or--decreased,--as
 the--case--may--be,--by--the--amount--computed--by--dividing:

{i}--the--difference--between:

{A}--the--amount--of--estimated--tax--required--to--be--paid
 before--the--date--on--which--the--new--estimate--was--made;--and

{B}--the--amount--of--estimated--tax--that--would--have--been
 required--to--be--paid--before--that--date--if--the--new--estimate--had
 been--made--when--the--first--estimate--was--made;

{i}--by--the--number--of--installments--remaining--to--be--paid
 on--or--after--the--date--on--which--the--new--estimate--was--made;

Except as provided in 15-31-510, the amount of any required
 installment is 25% of the required annual payment. The
 required annual payment is the lesser of:

(i) 80% of the tax shown on the return for the taxable
 year or, if a return is not filed, 80% of the tax for that
 year; or

(ii) 100% of the tax shown on the return of the
 corporation for the preceding taxable year if the preceding

taxable year was a period of 12 months and if the
 corporation filed a return for that year.

(3) The application of this section to taxable years of
 less than 12 months must be in accordance with rules adopted
 by the department.

(4) At the election of the corporation, any installment
 of the estimated tax may be paid before the date prescribed
 for its payment."

Section 2. Section 15-31-510, MCA, is amended to read:

"15-31-510. Estimated payments -- interest penalty --
 tax returns -- penalty -- interest. (1) For corporations
 failing to make estimated payments according to the schedule
 provided in 15-31-502(2), there is assessed a 20% per annum
 year underpayment interest penalty calculated as follows:

(a) For purposes of this subsection (a), the amount of
 underpayment is in excess of the amount of the required
 installment that--would--be--required--to--be--paid--if--the
 estimated--tax--were--equal--to--80%--of--the--tax--shown--on--the
 return--for--the--taxable--year--or,--if--no--return--was--filed,--80%
 of--the--tax--for--the--year set forth in 15-31-502 over that
 exceeds the amount, if any, of the installment paid on or
 before the last date prescribed for payment.

(b) Notwithstanding the provisions of subsection
 (1)(a), the interest penalty with respect to an underpayment
 of any installment may not be imposed if the total amount of

all payments of estimated tax made on or before the last date prescribed for the payment of the installment equals or exceeds the amount that would have been required to be paid on or before that date if the estimated tax were the lesser of the following:

(i) the tax shown on the return of the corporation for the preceding taxable year if a return showing a liability for tax was filed for the preceding taxable year and the preceding year was a taxable year of 12 months;

(ii) an amount equal to the tax computed at the rates applicable to the taxable year, but otherwise on the basis of the facts shown on the return of the corporation for and the law applicable to the preceding taxable year; or

(iii) an amount equal to 80% of the tax for the taxable year, computed by placing on an annualized basis the taxable income:

(A)(i) for the first 3 months of the taxable year in the case of the installment required to be paid in the 4th month;

(B)(ii) for the first 3 months or for the first 5 months of the taxable year in the case of the installment required to be paid in the 6th month;

(C)(iii) for the first 6 months or for the first 8 months of the taxable year in the case of the installment required to be paid in the 9th month; and

(B)(iv) for the first 9 months or for the first 11 months of the taxable year in the case of the installment required to be paid in the 12th month of the taxable year.

(c) For purposes of subsection (1)(b)(iii), the taxable income must be placed on an annualized basis by:

(i) multiplying by 12 the taxable income referred to in subsection (1)(b)(iii); and

(ii) dividing the resulting amount by the number of months in the taxable year (3, 5, 6, 8, 9, or 11, as the case may be) referred to in subsection (1)(b)(iii).

(d) Notwithstanding subsections (1)(a) through (1)(c), the interest penalty with respect to an underpayment of any installment may not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of the installment equals or exceeds 80% of the amount determined under subsection (1)(e).

(e) To determine the amount under this subsection (e) for any installment:

(i) take the taxable income for all months during the taxable year preceding the filing month;

(ii) divide the amount by the base period percentage for all months during the taxable year preceding the filing month;

(iii) determine the tax on the amount calculated under

subsection (1)(e)(ii); and

(iv) multiply the tax computed under subsection (1)(e)(iii) by the base period percentage for the filing month and all months during the taxable year preceding the filing month.

(f) For purposes of this subsection (1):

(i) the base period percentage for any period of months is the average percentage that the taxable income for the corresponding months in each of the 3 preceding taxable years bears to the taxable income of the 3 preceding years;

(ii) the term "filing month" means the month in which the installment is required to be paid;

(iii) this subsection (1) applies only if the base period percentage for any 6 consecutive months of the taxable year equals or exceeds 70%; and

(iv) the department of revenue may by rule provide for the determination of the base period percentage in the case of reorganizations, new corporations, and other similar circumstances.

(2) If the tax for any corporation is not paid on or before the due date of the return as provided in 15-31-111(2), there is assessed a penalty of 10% of the amount of the tax due, unless it is shown that the failure was due to reasonable cause and not to neglect.

(3) If any tax due under this section is not paid when

due, by reason of extension granted or otherwise, interest is added to the tax due at the rate of 12% a year from the due date until paid."

Section 3. Section 87-2-903, MCA, is amended to read:

"87-2-903. Compensation and duties of agents -- penalty for late submission of license money. (1) License agents, except salaried employees of the department, ~~shall~~ must receive for all services rendered the sum of ~~4--cents--for the--1992--license--year--and~~ 50 cents thereafter for each license, permit, or certificate issued. Each license agent shall submit to the department all duplicates of each class of licenses sold and shall accompany the duplicate licenses with all ~~moneys~~ money received for the sale of the licenses, less the appropriate fee. The department may designate classes of license agents and may establish a deadline for submission of license money by each class of agent. Each license agent shall keep his the license account open at all reasonable hours to inspection by the department, the director, the wardens, or the legislative auditor.

(2) For purposes of this section, the term "license" includes any license, permit, and certificate prescribed by the department.

(3) If a license agent fails to submit to the department all money received from the declared sale of licenses, less the appropriate fee, by the deadline

1 established by the department, an interest charge equal to
2 the rate charged on late corporation license tax payments
3 under ~~15-31-502~~ 15-31-510(2) must be assessed. Acceptance of
4 late payments with interest does not preclude the department
5 from summarily revoking the appointment of a license agent
6 under 87-2-904."

7 NEW SECTION. **Section 4. Applicability -- rulemaking.**

8 (1) [This act] applies to tax years beginning after December
9 31, 1993.

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

-End-

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 13 tax payment -- amount of required installments. (1) All
 14 taxpayers shall compute the amount of tax payable under this
 15 chapter and shall remit the amount to the department of
 16 revenue on or before the 15th day of the 5th month following
 17 the close of the taxable period.

18 (2) (a) Each corporation shall make estimated tax
 19 payments if its annual estimated tax can reasonably be
 20 expected to be is \$5,000 or more. The estimated payments
 21 must be made in installments, as follows:

22 (a) -- if if the \$5,000 threshold is met or exceeded:
 23 The following percentages of the estimated tax must be
 24 paid on the 15th day of the applicable month:

25 - 4th 6th 9th 12th

	month	month	month	month
1 -				
2 Before the 1st day of the				
3 4th month of the taxable				
4 year:	25%	25%	25%	25%
5 After the last day of the				
6 3rd month and before the				
7 1st day of the 6th month of				
8 the taxable year:	-	33-1/3%	33-1/3%	33-1/3%
9 After the last day of the				
10 5th month and before the				
11 1st day of the 9th month of				
12 the taxable year:	-	-	50%	50%
13 After the last day of the				
14 8th month and before the				
15 12th month of the taxable				
16 year:	-	-	-	100%
17 (i) For a corporation taxed on a calendar-year basis:				
18 For the following required installments the due date is:				
19 1st.....				April 15
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23 (ii) for a corporation taxed on a fiscal-year basis:				
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25 1st.....				15th day of the 4th month

1 2nd.....15th day of the 6th month
 2 3rd.....15th day of the 9th month
 3 4th.....15th day of the 12th month

4 (b) If--after--paying--any--installment--of--estimated--tax
 5 the--taxpayer--makes--a--new--estimate,--the--amount--of--each
 6 installment,--if--any,--is--the--amount--that--would--have--been--paid
 7 if--the--new--estimate--had--been--made--when--the--first--estimate
 8 for--the--taxable--year--was--made,--increased--or--decreased,--as
 9 the--case--may--be--by--the--amount--computed--by--dividing:

10 {i}--the--difference--between:

11 {A}--the--amount--of--estimated--tax--required--to--be--paid
 12 before--the--date--on--which--the--new--estimate--was--made,--and

13 {B}--the--amount--of--estimated--tax--that--would--have--been
 14 required--to--be--paid--before--that--date--if--the--new--estimate--had
 15 been--made--when--the--first--estimate--was--made:

16 {ii}--by--the--number--of--installments--remaining--to--be--paid
 17 on--or--after--the--date--on--which--the--new--estimate--was--made.

18 Except as provided in 15-31-510, the amount of any required
 19 installment is 25% of the required annual payment. The
 20 required annual payment is the lesser of:

21 (i) 80% of the tax shown on the return for the taxable
 22 year or, if a return is not filed, 80% of the tax for that
 23 year; or

24 (ii) 100% of the tax shown on the return of the
 25 corporation for the preceding taxable year if the preceding

1 taxable year was a period of 12 months and if the
 2 corporation filed a return for that year.

3 (3) The application of this section to taxable years of
 4 less than 12 months must be in accordance with rules adopted
 5 by the department.

6 (4) At the election of the corporation, any installment
 7 of the estimated tax may be paid before the date prescribed
 8 for its payment."

9 **Section 2.** Section 15-31-510, MCA, is amended to read:

10 "15-31-510. Estimated payments -- interest penalty --
 11 tax returns -- penalty -- interest. (1) For corporations
 12 failing to make estimated payments according to the schedule
 13 provided in 15-31-502(2), there is assessed a 20% per annum
 14 year underpayment interest penalty calculated as follows:

15 (a) For purposes of this subsection (a), the amount of
 16 underpayment is in excess of the amount of the required
 17 installment that--would--be--required--to--be--paid--if--the
 18 estimated--tax--were--equal--to--80%--of--the--tax--shown--on--the
 19 return--for--the--taxable--year--or,--if--no--return--was--filed,--80%
 20 of--the--tax--for--the--year set forth in 15-31-502 over that
 21 exceeds the amount, if any, of the installment paid on or
 22 before the last date prescribed for payment.

23 (b) Notwithstanding the provisions of subsection
 24 (1)(a), the interest penalty with respect to an underpayment
 25 of any installment may not be imposed if the total amount of

1 all payments of estimated tax made on or before the last
2 date prescribed for the payment of the installment equals or
3 exceeds the amount that would have been required to be paid
4 on or before that date if the estimated tax were the lesser
5 of the following:

6 (i) the tax shown on the return of the corporation for
7 the preceding taxable year if a return showing a liability
8 for tax was filed for the preceding taxable year and the
9 preceding year was a taxable year of 12 months;

10 (ii) an amount equal to the tax computed at the rates
11 applicable to the taxable year, but otherwise on the basis
12 of the facts shown on the return of the corporation for, and
13 the law applicable to, the preceding taxable year; or

14 (iii) an amount equal to 80% of the tax for the taxable
15 year, computed by placing on an annualized basis the taxable
16 income:

17 (A)(i) for the first 3 months of the taxable year in
18 the case of the installment required to be paid in the 4th
19 month;

20 (B)(ii) for the first 3 months or for the first 5 months
21 of the taxable year in the case of the installment required
22 to be paid in the 6th month;

23 (C)(iii) for the first 6 months or for the first 8
24 months of the taxable year in the case of the installment
25 required to be paid in the 9th month; and

1 (B)(iv) for the first 9 months or for the first 11
2 months of the taxable year in the case of the installment
3 required to be paid in the 12th month of the taxable year.

4 (c) For purposes of subsection (1)(b)(iii), the taxable
5 income must be placed on an annualized basis by:

6 (i) multiplying by 12 the taxable income referred to in
7 subsection (1)(b)(iii); and

8 (ii) dividing the resulting amount by the number of
9 months in the taxable year (3, 5, 6, 8, 9, or 11, as the
10 case may be) referred to in subsection (1)(b)(iii).

11 (d) Notwithstanding subsections (1)(a) through (1)(c),
12 the interest penalty with respect to an underpayment of any
13 installment may not be imposed if the total amount of all
14 payments of estimated tax made on or before the last date
15 prescribed for the payment of the installment equals or
16 exceeds 80% of the amount determined under subsection
17 (1)(e).

18 (e) To determine the amount under this subsection (e)
19 for any installment:

20 (i) take the taxable income for all months during the
21 taxable year preceding the filing month;

22 (ii) divide the amount by the base period percentage for
23 all months during the taxable year preceding the filing
24 month;

25 (iii) determine the tax on the amount calculated under

1 subsection (1)(e)(ii); and

2 (iv) multiply the tax computed under subsection
3 (1)(e)(iii) by the base period percentage for the filing
4 month and all months during the taxable year preceding the
5 filing month.

6 (f) For purposes of this subsection (1):

7 (i) the base period percentage for any period of months
8 is the average percentage that the taxable income for the
9 corresponding months in each of the 3 preceding taxable
10 years bears to the taxable income of the 3 preceding years;

11 (ii) the term "filing month" means the month in which
12 the installment is required to be paid;

13 (iii) this subsection (1) applies only if the base
14 period percentage for any 6 consecutive months of the
15 taxable year equals or exceeds 70%; and

16 (iv) the department of revenue may by rule provide for
17 the determination of the base period percentage in the case
18 of reorganizations, new corporations, and other similar
19 circumstances.

20 (2) If the tax for any corporation is not paid on or
21 before the due date of the return as provided in
22 15-31-111(2), there is assessed a penalty of 10% of the
23 amount of the tax due, unless it is shown that the failure
24 was due to reasonable cause and not to neglect.

25 (3) If any tax due under this section is not paid when

1 due, by reason of extension granted or otherwise, interest
2 is added to the tax due at the rate of 12% a year from the
3 due date until paid."

4 **Section 3.** Section 87-2-903, MCA, is amended to read:

5 "87-2-903. Compensation and duties of agents -- penalty
6 for late submission of license money. (1) License agents,
7 except salaried employees of the department, shall must
8 receive for all services rendered the sum of 4 ~~cents~~ for
9 the ~~1992~~ license year and 50 cents thereafter for each
10 license, permit, or certificate issued. Each license agent
11 shall submit to the department all duplicates of each class
12 of licenses sold and shall accompany the duplicate licenses
13 with all ~~moneys~~ money received for the sale of the licenses,
14 less the appropriate fee. The department may designate
15 classes of license agents and may establish a deadline for
16 submission of license money by each class of agent. Each
17 license agent shall keep his the license account open at all
18 reasonable hours to inspection by the department, the
19 director, the wardens, or the legislative auditor.

20 (2) For purposes of this section, the term "license"
21 includes any license, permit, and certificate prescribed by
22 the department.

23 (3) If a license agent fails to submit to the
24 department all money received from the declared sale of
25 licenses, less the appropriate fee, by the deadline

1 established by the department, an interest charge equal to
2 the rate charged on late corporation license tax payments
3 under 15-31-502 15-31-510(2) must be assessed. Acceptance of
4 late payments with interest does not preclude the department
5 from summarily revoking the appointment of a license agent
6 under 87-2-904."

7 NEW SECTION. **Section 4. Applicability -- rulemaking.**

8 (1) [This act] applies to tax years beginning after December
9 31, 1993.

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

-End-

SENATE BILL NO. 227

INTRODUCED BY STANG

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE PAYMENT OF ESTIMATED CORPORATION LICENSE OR INCOME TAX; AMENDING SECTIONS 15-31-502, 15-31-510, AND 87-2-903, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 15-31-502, MCA, is amended to read:

"15-31-502. **Assessment and payment of tax -- estimated tax payment -- amount of required installments.** (1) All taxpayers shall compute the amount of tax payable under this chapter and shall remit the amount to the department of revenue on or before the 15th day of the 5th month following the close of the taxable period.

(2) (a) Each corporation shall make estimated tax payments if its annual estimated tax ~~can reasonably be expected to be~~ is \$5,000 or more. The estimated payments must be made in installments, as follows:

~~(a) -- If if the \$5,000 threshold is met or exceeded:~~

~~The following percentages of the estimated tax must be paid on the 15th day of the applicable months:~~

-	4th	5th	9th	12th
---	-----	-----	-----	------

1	-	month	month	month	month
2	Before the 1st day of the				
3	4th month of the taxable				
4	year:	25%	25%	25%	25%
5	After the last day of the				
6	3rd month and before the				
7	1st day of the 6th month of				
8	the taxable year:	-	33-1/3%	33-1/3%	33-1/3%
9	After the last day of the				
10	5th month and before the				
11	1st day of the 9th month of				
12	the taxable year:	-	-	50%	50%
13	After the last day of the				
14	8th month and before the				
15	12th month of the taxable				
16	year:	-	-	-	100%
17	(i) For a corporation taxed on a calendar-year basis:				
18	For the following required installments the due date is:				
19	1st.....April 15				
20	2nd.....June 15				
21	3rd.....September 15				
22	4th.....December 15				
23	(ii) for a corporation taxed on a fiscal-year basis:				
24	For the following required installments the due date is:				
25	1st.....15th day of the 4th month				

1 2nd.....15th day of the 6th month
 2 3rd.....15th day of the 9th month
 3 4th.....15th day of the 12th month
 4 (b) ~~If--after--paying--any--installment--of--estimated--tax~~
 5 ~~the--taxpayer--makes--a--new--estimate,--the--amount--of--each~~
 6 ~~installment,--if--any,--is--the--amount--that--would--have--been--paid~~
 7 ~~if--the--new--estimate--had--been--made--when--the--first--estimate~~
 8 ~~for--the--taxable--year--was--made,--increased--or--decreased,--as~~
 9 ~~the--case--may--be,--by--the--amount--computed--by--dividing:~~
 10 ~~(i)--the--difference--between:~~
 11 ~~(A)--the--amount--of--estimated--tax--required--to--be--paid~~
 12 ~~before--the--date--on--which--the--new--estimate--was--made,--and~~
 13 ~~(B)--the--amount--of--estimated--tax--that--would--have--been~~
 14 ~~required--to--be--paid--before--that--date--if--the--new--estimate--had~~
 15 ~~been--made--when--the--first--estimate--was--made:~~
 16 ~~(ii)--by--the--number--of--installments--remaining--to--be--paid~~
 17 ~~on--or--after--the--date--on--which--the--new--estimate--was--made:~~
 18 Except as provided in 15-31-510, the amount of any required
 19 installment is 25% of the required annual payment. The
 20 required annual payment is the lesser of:
 21 (i) 80% of the tax shown on the return for the taxable
 22 year or, if a return is not filed, 80% of the tax for that
 23 year; or
 24 (ii) 100% of the tax shown on the return of the
 25 corporation for the preceding taxable year if the preceding

1 taxable year was a period of 12 months and if the
 2 corporation filed a return for that year.
 3 (3) The application of this section to taxable years of
 4 less than 12 months must be in accordance with rules adopted
 5 by the department.
 6 (4) At the election of the corporation, any installment
 7 of the estimated tax may be paid before the date prescribed
 8 for its payment."
 9 **Section 2.** Section 15-31-510, MCA, is amended to read:
 10 **"15-31-510. Estimated payments -- interest penalty --**
 11 **tax returns -- penalty -- interest.** (1) For corporations
 12 failing to make estimated payments according to the schedule
 13 provided in 15-31-502(2), there is assessed a 20% per annum
 14 year underpayment interest penalty calculated as follows:
 15 (a) For purposes of this subsection (a), the amount of
 16 underpayment is ~~in-excess-of~~ the amount of the required
 17 installment that--would--be--required--to--be--paid--if--the
 18 estimated-tax-were-equal-to-80%-of--the--tax--shown--on--the
 19 return--for--the--taxable--year--or,--if--no--return--was--filed,--80%
 20 of--the--tax--for--the--year set forth in 15-31-502 over that
 21 exceeds the amount, if any, of the installment paid on or
 22 before the last date prescribed for payment.
 23 (b) Notwithstanding the provisions of subsection
 24 (1)(a), the interest penalty with respect to an underpayment
 25 of any installment may not be imposed if the total amount of

all payments of estimated tax made on or before the last date prescribed for the payment of the installment equals or exceeds the amount that would have been required to be paid on or before that date if the estimated tax were the lesser of the following:

~~(i) the tax shown on the return of the corporation for the preceding taxable year if a return showing a liability for tax was filed for the preceding taxable year and the preceding year was a taxable year of 12 months;~~

~~(ii) an amount equal to the tax computed at the rates applicable to the taxable year, but otherwise on the basis of the facts shown on the return of the corporation for, and the law applicable to, the preceding taxable year; or~~

~~(iii) an amount equal to 80% of the tax for the taxable year, computed by placing on an annualized basis the taxable income:~~

~~(A)(i) for the first 3 months of the taxable year in the case of the installment required to be paid in the 4th month;~~

~~(B)(ii) for the first 3 months or for the first 5 months of the taxable year in the case of the installment required to be paid in the 6th month;~~

~~(C)(iii) for the first 6 months or for the first 8 months of the taxable year in the case of the installment required to be paid in the 9th month; and~~

~~(B)(iv) for the first 9 months or for the first 11 months of the taxable year in the case of the installment required to be paid in the 12th month of the taxable year.~~

(c) For purposes of subsection (1)(b)(iii), the taxable income must be placed on an annualized basis by:

(i) multiplying by 12 the taxable income referred to in subsection (1)(b)(iii); and

(ii) dividing the resulting amount by the number of months in the taxable year (3, 5, 6, 8, 9, or 11, as the case may be) referred to in subsection (1)(b)(iii).

(d) Notwithstanding subsections (1)(a) through (1)(c), the interest penalty with respect to an underpayment of any installment may not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of the installment equals or exceeds 80% of the amount determined under subsection (1)(e).

(e) To determine the amount under this subsection (e) for any installment:

(i) take the taxable income for all months during the taxable year preceding the filing month;

(ii) divide the amount by the base period percentage for all months during the taxable year preceding the filing month;

(iii) determine the tax on the amount calculated under

subsection (1)(e)(ii); and

(iv) multiply the tax computed under subsection (1)(e)(iii) by the base period percentage for the filing month and all months during the taxable year preceding the filing month.

(f) For purposes of this subsection (1):

(i) the base period percentage for any period of months is the average percentage that the taxable income for the corresponding months in each of the 3 preceding taxable years bears to the taxable income of the 3 preceding years;

(ii) the term "filing month" means the month in which the installment is required to be paid;

(iii) this subsection (1) applies only if the base period percentage for any 6 consecutive months of the taxable year equals or exceeds 70%; and

(iv) the department of revenue may by rule provide for the determination of the base period percentage in the case of reorganizations, new corporations, and other similar circumstances.

(2) If the tax for any corporation is not paid on or before the due date of the return as provided in 15-31-111(2), there is assessed a penalty of 10% of the amount of the tax due, unless it is shown that the failure was due to reasonable cause and not to neglect.

(3) If any tax due under this section is not paid when

due, by reason of extension granted or otherwise, interest is added to the tax due at the rate of 12% a year from the due date until paid."

Section 3. Section 87-2-903, MCA, is amended to read:

"87-2-903. Compensation and duties of agents -- penalty for late submission of license money. (1) License agents, except salaried employees of the department, ~~shall~~ must receive for all services rendered the sum of ~~40--cents--for the--1992--license--year--and~~ 50 cents thereafter for each license, permit, or certificate issued. Each license agent shall submit to the department all duplicates of each class of licenses sold and shall accompany the duplicate licenses with all ~~moneys~~ money received for the sale of the licenses, less the appropriate fee. The department may designate classes of license agents and may establish a deadline for submission of license money by each class of agent. Each license agent shall keep ~~his~~ the license account open at all reasonable hours to inspection by the department, the director, the wardens, or the legislative auditor.

(2) For purposes of this section, the term "license" includes any license, permit, and certificate prescribed by the department.

(3) If a license agent fails to submit to the department all money received from the declared sale of licenses, less the appropriate fee, by the deadline

1 established by the department, an interest charge equal to
2 the rate charged on late corporation license tax payments
3 under ~~15-31-502~~ 15-31-510(2) must be assessed. Acceptance of
4 late payments with interest does not preclude the department
5 from summarily revoking the appointment of a license agent
6 under 87-2-904."

7 NEW SECTION. **Section 4. Applicability -- rulemaking.**

8 (1) [This act] applies to tax years beginning after December
9 31, 1993.

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

-End-