

SENATE BILL NO. 234

INTRODUCED BY HARP  
BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE SENATE

JANUARY 22, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
FEBRUARY 1, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
	PRINTING REPORT.
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 11, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 2, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
MARCH 4, 1993	SECOND READING, CONCURRED IN.
MARCH 8, 1993	THIRD READING, CONCURRED IN. AYES, 92; NOES, 6.
MARCH 9, 1993	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 11, 1993	RECEIVED FROM HOUSE.
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MARCH 12, 1993

SECOND READING, AMENDMENTS  
CONCURRED IN.

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

Senate BILL NO. 234

INTRODUCED BY HARY

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE CONFIDENTIALITY OF CORPORATION LICENSE OR INCOME TAX RECORDS; AMENDING SECTIONS 15-31-406 AND 15-38-109, MCA; AND REPEALING SECTIONS 15-31-507 AND 15-31-508, MCA."

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

NEW SECTION. **Section 1.** Confidentiality of tax records. (1) Except as provided in this section in accordance with a proper judicial order or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

(a) the amount of income or any particulars set forth or disclosed in any return or report required under this chapter or any other information relating to taxation secured in the administration of this chapter; or

(b) any federal return or information in or disclosed on a federal return or report required by law or rule of the department of revenue under this chapter.

(2) (a) An officer or employee charged with custody of returns and reports required by this chapter may not be ordered to produce any of them or evidence of anything

contained in them in any administrative proceeding or action or proceeding in any court, except:

(i) in an action or proceeding in which the department is a party under the provisions of this chapter; or

(ii) in any other tax proceeding or on behalf of a party to an action or proceeding under the provisions of this chapter when the returns or reports or facts shown in them are directly pertinent to the action or proceeding.

(b) If the production of a return, report, or information contained in them is ordered, the court shall limit production of and the admission of returns, reports, or facts shown in them to the matters directly pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) the delivery of a certified copy of any return or report filed in connection with a return to the taxpayer who filed the return or report or to the taxpayer's authorized representative;

(b) the publication of statistics prepared in a manner that prevents the identification of particular returns, reports, or items from returns or reports;

(c) the inspection of returns and reports by the attorney general or other legal representative of the state in the course of an administrative proceeding or litigation under this chapter;

1 (d) the inspection of returns and reports by the  
2 legislative auditor, but the information furnished to the  
3 legislative auditor is subject to the same restrictions on  
4 disclosure outside that office as provided in subsection  
5 (1);

6 (e) the delivery of corporation income tax data to the  
7 legislative fiscal analyst and the office of budget and  
8 program planning, but the information furnished to the  
9 legislative fiscal analyst and the office of budget and  
10 program planning is subject to the same restrictions on  
11 disclosure outside those offices as provided in subsection  
12 (1); or

13 (f) the director of revenue from permitting a  
14 representative of the commissioner of internal revenue of  
15 the United States or a representative of a proper officer of  
16 any state imposing a tax on the income of a taxpayer to  
17 inspect the returns or reports of a corporation. The  
18 department may also furnish those persons abstracts of  
19 income, returns, and reports; information concerning any  
20 item in a return or report; and any item disclosed by an  
21 investigation of the income or return of a corporation. The  
22 director of revenue may not furnish that information to a  
23 person representing the United States or another state  
24 unless the United States or the other state grants  
25 substantially similar privileges to an officer of this state

1 charged with the administration of this chapter.

2 (4) A person convicted of violating this section shall  
3 be fined not to exceed \$1,000 or be imprisoned in the county  
4 jail for a term not to exceed 1 year, or both. If a public  
5 servant, as defined in 45-2-101, is convicted of violating  
6 this section, the person forfeits office and may not hold  
7 any public office or public employment in the state for a  
8 period of 1 year after conviction.

9 **Section 2.** Section 15-31-406, MCA, is amended to read:

10 "15-31-406. License tax sections incorporated by  
11 reference. The provisions of the following sections of this  
12 chapter are incorporated into this part by reference and  
13 made a part hereof of this part:

14 (1) that part of 15-31-101 ~~which~~ that defines the term  
15 "corporation" and 15-31-102, which specifies the classes of  
16 organizations whose income ~~shall~~ may not be taxed;

17 (2) sections 15-31-111 through 15-31-114, 15-31-117  
18 through 15-31-119, 15-31-141, 15-31-142, 15-31-301 through  
19 15-31-313, 15-31-501 through 15-31-506, 15-31-509,  
20 15-31-525, 15-31-526, 15-31-531, 15-31-532, 15-31-541, and  
21 15-31-543, and [section 1], except that the term "gross  
22 income" ~~shall~~ must be construed as excluding the net amount  
23 of interest income from valid obligations of the United  
24 States and except that wherever the words "tax", "license  
25 tax", "license fee", "corporation excise tax", or like words

1 appear, referring to the tax imposed under part 1 of this  
2 chapter, there ~~shall-be~~ is substituted the words "income  
3 tax".

4 **Section 3.** Section 15-38-109, MCA, is amended to read:

5 "15-38-109. Restricted access to records. The  
6 information furnished by the producer to the department for  
7 the purpose of this chapter ~~shall~~ must be treated as  
8 provided in ~~15-31-507~~ [section 1]."

9 NEW SECTION. **Section 4.** Codification instruction.  
10 [Section 1] is intended to be codified as an integral part  
11 of Title 15, chapter 31, part 5, and the provisions of Title  
12 15 apply to [section 1].

13 NEW SECTION. **Section 5.** Repealer. Sections 15-31-507  
14 and 15-31-508, MCA, are repealed.

-End-

APPROVED BY COMMITTEE  
ON TAXATION~~Senate~~ BILL NO. 234INTRODUCED BY HARRY

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE  
CONFIDENTIALITY OF CORPORATION LICENSE OR INCOME TAX  
RECORDS; AMENDING SECTIONS 15-31-406 AND 15-38-109, MCA; AND  
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NEW SECTION. Section 1. Confidentiality of tax  
records. (1) Except as provided in this section in  
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provided by law, it is unlawful to divulge or make known in  
any manner:

(a) the amount of income or any particulars set forth  
or disclosed in any return or report required under this  
chapter or any other information relating to taxation  
secured in the administration of this chapter; or

(b) any federal return or information in or disclosed  
on a federal return or report required by law or rule of the  
department of revenue under this chapter.

(2) (a) An officer or employee charged with custody of  
returns and reports required by this chapter may not be  
ordered to produce any of them or evidence of anything

contained in them in any administrative proceeding or action  
or proceeding in any court, except:

(i) in an action or proceeding in which the department  
is a party under the provisions of this chapter; or

(ii) in any other tax proceeding or on behalf of a party  
to an action or proceeding under the provisions of this  
chapter when the returns or reports or facts shown in them  
are directly pertinent to the action or proceeding.

(b) If the production of a return, report, or  
information contained in them is ordered, the court shall  
limit production of and the admission of returns, reports,  
or facts shown in them to the matters directly pertinent to  
the action or proceeding.

(3) This section does not prohibit:

(a) the delivery of a certified copy of any return or  
report filed in connection with a return to the taxpayer who  
filed the return or report or to the taxpayer's authorized  
representative;

(b) the publication of statistics prepared in a manner  
that prevents the identification of particular returns,  
reports, or items from returns or reports;

(c) the inspection of returns and reports by the  
attorney general or other legal representative of the state  
in the course of an administrative proceeding or litigation  
under this chapter;

(d) the inspection of returns and reports by the legislative auditor, but the information furnished to the legislative auditor is subject to the same restrictions on disclosure outside that office as provided in subsection (1);

(e) the delivery of corporation income tax data to the legislative fiscal analyst and the office of budget and program planning, but the information furnished to the legislative fiscal analyst and the office of budget and program planning is subject to the same restrictions on disclosure outside those offices as provided in subsection (1); or

(f) the director of revenue from permitting a representative of the commissioner of internal revenue of the United States or a representative of a proper officer of any state imposing a tax on the income of a taxpayer to inspect the returns or reports of a corporation. The department may also furnish those persons abstracts of income, returns, and reports; information concerning any item in a return or report; and any item disclosed by an investigation of the income or return of a corporation. The director of revenue may not furnish that information to a person representing the United States or another state unless the United States or the other state grants substantially similar privileges to an officer of this state

charged with the administration of this chapter.

(4) A person convicted of violating this section shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. If a public servant, as defined in 45-2-101, is convicted of violating this section, the person forfeits office and may not hold any public office or public employment in the state for a period of 1 year after conviction.

**Section 2.** Section 15-31-406, MCA, is amended to read:

"15-31-406. License tax sections incorporated by reference. The provisions of the following sections of this chapter are incorporated into this part by reference and made a part hereof of this part:

(1) that part of 15-31-101 which that defines the term "corporation" and 15-31-102, which specifies the classes of organizations whose income ~~shall~~ may not be taxed;

(2) sections 15-31-111 through 15-31-114, 15-31-117 through 15-31-119, 15-31-141, 15-31-142, 15-31-301 through 15-31-313, 15-31-501 through 15-31-506, 15-31-509, 15-31-525, 15-31-526, 15-31-531, 15-31-532, 15-31-541, and 15-31-543, and [section 1], except that the term "gross income" ~~shall~~ must be construed as excluding the net amount of interest income from valid obligations of the United States and except that wherever the words "tax", "license tax", "license fee", "corporation excise tax", or like words

1 appear, referring to the tax imposed under part 1 of this  
2 chapter, there ~~shall be~~ is substituted the words "income  
3 tax".

4 **Section 3.** Section 15-38-109, MCA, is amended to read:

5 "15-38-109. Restricted access to records. The  
6 information furnished by the producer to the department for  
7 the purpose of this chapter ~~shall~~ must be treated as  
8 provided in ~~15-31-507~~ [section 1]."

9 NEW SECTION. **Section 4.** Codification instruction.  
10 [Section 1] is intended to be codified as an integral part  
11 of Title 15, chapter 31, part 5, and the provisions of Title  
12 15 apply to [section 1].

13 NEW SECTION. **Section 5.** Repealer. Sections 15-31-507  
14 and 15-31-508, MCA, are repealed.

-End-



~~Senate~~ BILL NO. 234

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(b) any federal return or information in or disclosed on a federal return or report required by law or rule of the department of revenue under this chapter.

(2) (a) An officer or employee charged with custody of returns and reports required by this chapter may not be ordered to produce any of them or evidence of anything

contained in them in any administrative proceeding or action or proceeding in any court, except:

(i) in an action or proceeding in which the department is a party under the provisions of this chapter; or

(ii) in any other tax proceeding or on behalf of a party to an action or proceeding under the provisions of this chapter when the returns or reports or facts shown in them are directly pertinent to the action or proceeding.

(b) If the production of a return, report, or information contained in them is ordered, the court shall limit production of and the admission of returns, reports, or facts shown in them to the matters directly pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) the delivery of a certified copy of any return or report filed in connection with a return to the taxpayer who filed the return or report or to the taxpayer's authorized representative;

(b) the publication of statistics prepared in a manner that prevents the identification of particular returns, reports, or items from returns or reports;

(c) the inspection of returns and reports by the attorney general or other legal representative of the state in the course of an administrative proceeding or litigation under this chapter;

1 (d) the inspection of returns and reports by the  
2 legislative auditor, but the information furnished to the  
3 legislative auditor is subject to the same restrictions on  
4 disclosure outside that office as provided in subsection  
5 (1);

6 (e) the delivery of corporation income tax data to the  
7 legislative fiscal analyst and the office of budget and  
8 program planning, but the information furnished to the  
9 legislative fiscal analyst and the office of budget and  
10 program planning is subject to the same restrictions on  
11 disclosure outside those offices as provided in subsection  
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13 (f) the director of revenue from permitting a  
14 representative of the commissioner of internal revenue of  
15 the United States or a representative of a proper officer of  
16 any state imposing a tax on the income of a taxpayer to  
17 inspect the returns or reports of a corporation. The  
18 department may also furnish those persons abstracts of  
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22 director of revenue may not furnish that information to a  
23 person representing the United States or another state  
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25 substantially similar privileges to an officer of this state

1 charged with the administration of this chapter.

2 (4) A person convicted of violating this section shall  
3 be fined not to exceed \$1,000 or be imprisoned in the county  
4 jail for a term not to exceed 1 year, or both. If a public  
5 servant, as defined in 45-2-101, is convicted of violating  
6 this section, the person forfeits office and may not hold  
7 any public office or public employment in the state for a  
8 period of 1 year after conviction.

9 **Section 2.** Section 15-31-406, MCA, is amended to read:

10 "15-31-406. License tax sections incorporated by  
11 reference. The provisions of the following sections of this  
12 chapter are incorporated into this part by reference and  
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14 (1) that part of 15-31-101 which that defines the term  
15 "corporation" and 15-31-102, which specifies the classes of  
16 organizations whose income ~~shall~~ may not be taxed;

17 (2) sections 15-31-111 through 15-31-114, 15-31-117  
18 through 15-31-119, 15-31-141, 15-31-142, 15-31-301 through  
19 15-31-313, 15-31-501 through 15-31-506, 15-31-509,  
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21 15-31-543, and [section 1], except that the term "gross  
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24 States and except that wherever the words "tax", "license  
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5 "15-38-109. Restricted access to records. The  
6 information furnished by the producer to the department for  
7 the purpose of this chapter shall must be treated as  
8 provided in 15-31-507 [section 1]."

9 NEW SECTION. **Section 4.** Codification instruction.  
10 [Section 1] is intended to be codified as an integral part  
11 of Title 15, chapter 31, part 5, and the provisions of Title  
12 15 apply to [section 1].

13 NEW SECTION. **Section 5.** Repealer. Sections 15-31-507  
14 and 15-31-508, MCA, are repealed.

-End-

HOUSE STANDING COMMITTEE REPORT

February 10, 1993  
Page 2 of 2

February 10, 1993  
Page 1 of 2

Mr. Speaker: We, the committee on Taxation report that Senate Bill 234 (third reading copy -- blue) be concurred in as amended.

Signed: Bob Gilbert  
Bob Gilbert, Chair

5. Page 3, line 12 through page 4 line 1.  
Strike: "; or" on page 3 line 12 through "chapter" on page 4,  
line 1

6. Page 4, line 2.  
Strike: "(4)"  
Insert: "(5)"

-END-

And, that such amendments read: Carried by: Rep. Gilbert

1. Page 2.

Following: line 25

Insert: "(d) access to information under subsection (4); or  
(e) the director of revenue from permitting a representative of the commissioner of internal revenue of the United States or a representative of a proper officer of any state imposing a tax on the income of a taxpayer to inspect the returns or reports of a corporation. The department may also furnish those persons abstracts of income, returns, and reports; information concerning any item in a return or report; and any item disclosed by an investigation of the income or return of a corporation. The director of revenue may not furnish that information to a person representing the United States or another state unless the United States or the other state grants substantially similar privileges to an officer of this state charged with the administration of this chapter.

(4) The department shall on request:"

2. Page 3, line 1.

Strike: "(d)"

Insert: "(a) allow"

3. Page 3, line 5.

Following: "(1);"

Insert: "and"

4. Page 3, line 6.

Strike: "(e) the delivery of"

Insert: "(b) deliver"

Committee Vote:  
Yes 18, No 2.

331321SC.Hpf

SB 234

HOUSE

331321SC.Hpf

1 SENATE BILL NO. 234

2 INTRODUCED BY HARP

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE  
6 CONFIDENTIALITY OF CORPORATION LICENSE OR INCOME TAX  
7 RECORDS; AMENDING SECTIONS 15-31-406 AND 15-38-109, MCA; AND  
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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 NEW SECTION. **Section 1. Confidentiality of tax**  
12 **records.** (1) Except as provided in this section in  
13 accordance with a proper judicial order or as otherwise  
14 provided by law, it is unlawful to divulge or make known in  
15 any manner:

16 (a) the amount of income or any particulars set forth  
17 or disclosed in any return or report required under this  
18 chapter or any other information relating to taxation  
19 secured in the administration of this chapter; or

20 (b) any federal return or information in or disclosed  
21 on a federal return or report required by law or rule of the  
22 department of revenue under this chapter.

23 (2) (a) An officer or employee charged with custody of  
24 returns and reports required by this chapter may not be  
25 ordered to produce any of them or evidence of anything

1 contained in them in any administrative proceeding or action  
2 or proceeding in any court, except:

3 (i) in an action or proceeding in which the department  
4 is a party under the provisions of this chapter; or

5 (ii) in any other tax proceeding or on behalf of a party  
6 to an action or proceeding under the provisions of this  
7 chapter when the returns or reports or facts shown in them  
8 are directly pertinent to the action or proceeding.

9 (b) If the production of a return, report, or  
10 information contained in them is ordered, the court shall  
11 limit production of and the admission of returns, reports,  
12 or facts shown in them to the matters directly pertinent to  
13 the action or proceeding.

14 (3) This section does not prohibit:

15 (a) the delivery of a certified copy of any return or  
16 report filed in connection with a return to the taxpayer who  
17 filed the return or report or to the taxpayer's authorized  
18 representative;

19 (b) the publication of statistics prepared in a manner  
20 that prevents the identification of particular returns,  
21 reports, or items from returns or reports;

22 (c) the inspection of returns and reports by the  
23 attorney general or other legal representative of the state  
24 in the course of an administrative proceeding or litigation  
25 under this chapter;

1 (D) ACCESS TO INFORMATION UNDER SUBSECTION (4); OR  
 2 (E) THE DIRECTOR OF REVENUE FROM PERMITTING A  
 3 REPRESENTATIVE OF THE COMMISSIONER OF INTERNAL REVENUE OF  
 4 THE UNITED STATES OR A REPRESENTATIVE OF A PROPER OFFICER OF  
 5 ANY STATE IMPOSING A TAX ON THE INCOME OF A TAXPAYER TO  
 6 INSPECT THE RETURNS OR REPORTS OF A CORPORATION. THE  
 7 DEPARTMENT MAY ALSO FURNISH THOSE PERSONS ABSTRACTS OF  
 8 INCOME, RETURNS, AND REPORTS; INFORMATION CONCERNING ANY  
 9 ITEM IN A RETURN OR REPORT; AND ANY ITEM DISCLOSED BY AN  
 10 INVESTIGATION OF THE INCOME OR RETURN OF A CORPORATION. THE  
 11 DIRECTOR OF REVENUE MAY NOT FURNISH THAT INFORMATION TO A  
 12 PERSON REPRESENTING THE UNITED STATES OR ANOTHER STATE  
 13 UNLESS THE UNITED STATES OR THE OTHER STATE GRANTS  
 14 SUBSTANTIALLY SIMILAR PRIVILEGES TO AN OFFICER OF THIS STATE  
 15 CHARGED WITH THE ADMINISTRATION OF THIS CHAPTER.

16 (4) THE DEPARTMENT SHALL ON REQUEST:

17 {d}{A} ALLOW the inspection of returns and reports by  
 18 the legislative auditor, but the information furnished to  
 19 the legislative auditor is subject to the same restrictions  
 20 on disclosure outside that office as provided in subsection  
 21 (1); AND

22 {e}{B} the--delivery--of DELIVER corporation income tax  
 23 data to the legislative fiscal analyst and the office of  
 24 budget and program planning, but the information furnished  
 25 to the legislative fiscal analyst and the office of budget

1 and program planning is subject to the same restrictions on  
 2 disclosure outside those offices as provided in subsection  
 3 (1);--or

4 {f}--the---director---of---revenue---from--permitting--a  
 5 representative-of-the-commissioner-of--internal--revenue--of  
 6 the-United-States-or-a-representative-of-a-proper-officer-of  
 7 any--state--imposing--a--tax--on-the-income-of-a-taxpayer-to  
 8 inspect--the--returns--or--reports--of--a--corporation--The  
 9 department-may--also--furnish--those--persons--abstracts--of  
 10 income,--returns,--and--reports;--information-concerning-any  
 11 item-in-a-return-or-report;--and-any--item--disclosed--by--an  
 12 investigation--of-the-income-or-return-of-a-corporation--The  
 13 director-of-revenue-may-not-furnish-that--information--to--a  
 14 person--representing--the--United--States--or--another-state  
 15 unless--the--United--States--or--the--other---state---grants  
 16 substantially-similar-privileges-to-an-officer-of-this-state  
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18 {4}{5} A person convicted of violating this section  
 19 shall be fined not to exceed \$1,000 or be imprisoned in the  
 20 county jail for a term not to exceed 1 year, or both. If a  
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 22 violating this section, the person forfeits office and may  
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