

HOUSE BILL 79

Introduced by S. Rice

12/09	Introduced
12/09	Referred to Taxation
12/09	First Reading
12/09	Fiscal Note Requested
12/13	Fiscal Note Request withdrawn by Sponsor
12/13	Hearing
	Tabled in Committee

1 House BILL NO. 79
2 INTRODUCED BY Blue
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TAXING THE SALARY OF
5 MONTANA RESIDENTS OF THE MILITARY, NATIONAL GUARD, AND ARMED
6 FORCES RESERVE; AMENDING SECTIONS 15-30-116 AND 15-30-201,
7 MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY
8 DATE."

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

11 **Section 1.** Section 15-30-116, MCA, is amended to read:

12 "15-30-116. Veterans' bonus ~~or--military--salary --~~
13 ~~exemptions exemption.~~ ~~††~~ All payments made under the World
14 War I bonus law, Korean bonus law, and the veterans' bonus
15 law are hereby exempt from taxation under the income tax
16 laws of the state of Montana, and any income tax which that
17 has been or may hereafter be paid on income received from
18 this source ~~shall be~~ is considered an overpayment and ~~shall~~
19 must be refunded upon the filing of an amended return and a
20 verified claim for refund on forms prescribed by the
21 department in the same manner as other income tax refund
22 claims are paid.

23 ~~††--The--salary--received--from--the--armed--forces--by~~
24 ~~residents-of-Montana-who-are-serving-on-active-duty--in--the~~
25 ~~regular--armed--forces-and-who-entered-into-active-duty-from~~

1 ~~Montana-is-exempt-from-state-income-tax."~~

2 **Section 2.** Section 15-30-201, MCA, is amended to read:

3 "15-30-201. Definitions. When used in 15-30-201 through
4 15-30-209, the following definitions apply:

5 (1) "Agricultural labor" includes all services
6 performed on a farm or ranch in connection with cultivating
7 the soil or in connection with raising or harvesting any
8 agricultural or horticultural commodity, including the
9 raising, shearing, feeding, caring for, training, and
10 management of livestock, bees, poultry, and fur-bearing
11 animals and wildlife.

12 (2) "Employee" includes an officer, employee, or
13 elected public official of the United States, the state of
14 Montana, or any political subdivision thereof or any agency
15 or instrumentality of the United States, the state of
16 Montana, or a political subdivision thereof. The term
17 "employee" also includes an officer of a corporation.

18 (3) "Employer" means the person for whom an individual
19 performs or performed any service, of whatever nature, as an
20 employee of the person; except that if the person for whom
21 the individual performs or performed the service does not
22 have control of the payment of the wages for the service,
23 the term "employer" means the person having control of the
24 payment of wages.

25 (4) "Wages" means all remuneration (other than fees

1 paid to a public official) for services performed by an
2 employee for ~~his~~ an employer, including the cash value of
3 all remuneration paid in any medium other than cash, except
4 that the term does not include remuneration paid:

5 (a) as benefits and allowances prohibited from taxation
6 by federal law for active service as a member of the regular
7 armed forces of the United States, as defined in 10 U.S.C.
8 101(33);

9 (b) for agricultural labor as defined in subsection
10 (1);

11 (c) for domestic service in a private home, local
12 college club, or local chapter of a college fraternity or
13 sorority;

14 (d) for casual labor not in the course of the
15 employer's trade or business performed in any calendar
16 quarter by an employee unless the cash remuneration paid for
17 the service is \$50 or more and the service is performed by
18 an individual who is regularly employed by the employer to
19 perform the service. For purposes of this subsection (4)(d),
20 an individual is considered to be regularly employed by an
21 employer during a calendar quarter only if:

22 (i) on each of 24 days during a quarter the individual
23 performs service not in the course of the employer's trade
24 or business for the employer for some portion of the day;
25 and

1 (ii) the individual was regularly employed (as
2 determined under subsection (4)(d)(i)) by the employer in
3 the performance of service during the preceding calendar
4 quarter;

5 (e) for services by a citizen or resident of the United
6 States for a foreign government or an international
7 organization;

8 (f) for services performed by a duly ordained,
9 commissioned, or licensed minister of a church in the
10 exercise of ~~his~~ a ministry or by a member of a religious
11 order in the exercise of duties required by the order;

12 (g) (i) for services performed by an individual under
13 the age of 18 in the delivery or distribution of newspapers
14 or shopping news, not including delivery or distribution to
15 any point for subsequent delivery or distribution; or

16 (ii) for services performed by an individual in and at
17 the time of the sale of newspapers or magazines to ultimate
18 consumers under an arrangement under which the newspapers or
19 magazines are to be sold by ~~him~~ the individual at a fixed
20 price, ~~his~~ with compensation being based on the retention of
21 the excess of the price over the amount at which the
22 newspapers or magazines are charged to ~~him~~ the individual,
23 whether or not ~~he~~ the individual is guaranteed a minimum
24 amount of compensation for the service or is entitled to be
25 credited with the unsold newspapers or magazines turned

1 back;

2 (h) for services not in the course of the employer's
3 trade or business to the extent paid in any medium other
4 than cash when the payments are in the form of lodgings or
5 meals and the services are received by the employee at the
6 request of and for the convenience of the employer;

7 (i) to or for an employee as a payment for or a
8 contribution toward the cost of any group plan or program
9 ~~which that~~ benefits the employee, including but not limited
10 to life insurance, hospitalization insurance for the
11 employee or dependents, and employees' club activities;

12 ~~(j)--for-national-guard-and-reserve-training-as-provided~~
13 ~~in-5-8-6-2-5517(d);~~

14 ~~(k)(j)~~ as tips, in accordance with section 3402(k) of
15 the Internal Revenue Code of 1954, as amended and applicable
16 on January 1, 1983, received by persons for services
17 rendered by them to patrons of premises licensed to provide
18 food, beverage, or lodging;

19 ~~(l)(k)~~ by an employer for dependent care assistance
20 actually provided to or on behalf of an employee and for
21 which a credit is allowed under 15-30-186 or 15-31-131,
22 subject to the limitations provided in section 129(b) of the
23 Internal Revenue Code as it read on January 1, 1989.
24 (Subsection ~~(4)(k)~~ ~~(4)(j)~~ terminates on occurrence of
25 contingency--sec. 3, Ch. 634, L. 1983.)"

1 NEW SECTION. **Section 3.** Effective date --
2 applicability. [This act] is effective January 1, 1994, and
3 applies to tax years commencing after December 31, 1993.

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