SENATE BILL NO. 306

INTRODUCED BY Doherty Cocchiarella Crippen

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING FROM INDIVIDUAL INCOME TAXATION THE DISTRIBUTIONS OF PENSION INCOME THAT ARE ATTRIBUTABLE TO CONTRIBUTIONS MADE BY THE TAXPAYER TO THE EXTENT THAT THE CONTRIBUTIONS WERE TAXED IN ANOTHER STATE; AMENDING SECTION 15-30-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 15-30-111, MCA, is amended to read:

"**15-30-111. Adjusted gross income.** (1) Adjusted gross income ~~shall be~~ is the taxpayer's federal income tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954 or as that section may be labeled or amended and in addition ~~shall include~~ includes the following:

(a) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision thereof;

(b) refunds received of federal income tax, to the extent the deduction of ~~such~~ the tax resulted in a reduction of Montana income tax liability;

(c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue Code of 1954, that has been reduced by any federal taxes paid by the subchapter S. corporation on the income; and

(d) depreciation or amortization taken on a title plant as defined in 33-25-105(15).

(2) Notwithstanding the provisions of the federal Internal Revenue Code of 1954, as labeled or amended, adjusted gross income does not include the following, which are exempt from taxation under this chapter:

(a) all interest income from obligations of the United States government, the state of Montana, or a county, municipality, district, or other political subdivision ~~thereof~~ of the state;

(b) interest income earned by a taxpayer age 65 or older in a taxable year, up to and including $800 for a taxpayer filing a separate return and $1,600 for each joint return;

(c) (i) except as provided in subsection (2)(c)(ii), the first $3,600 of all pension and annuity income received as defined in 15-30-101;

(ii) for pension and annuity income described under subsection (2)(c)(i), as follows:

(A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total amount of the exclusion provided in subsection (2)(c)(i) by $2 for every $1 of federal adjusted gross income in excess of $30,000 as shown on the taxpayer's return;

(B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in subsection (2)(c)(i) must be reduced by $2 for every $1 of federal adjusted gross income in excess of $30,000 as shown on their joint return;

(d) that portion of pension and annuity income, as defined in 15-30-101, that was received as a distribution attributable to contributions made by the taxpayer to the extent that the contributions were taxed in another state;

~~(d)~~(e) all Montana income tax refunds or tax refund credits;

~~(e)~~(f) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

~~(f)~~(g) all tips covered by section 3402(k) of the Internal Revenue Code of 1954, as amended and applicable on January 1, 1983, received by persons for services rendered by them to patrons of premises licensed to provide food, beverage, or lodging;

~~(g)~~(h) all benefits received under the workers' compensation laws;

~~(h)~~(i) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law; and

~~(i)~~(j) all money received because of a settlement agreement or judgment in a lawsuit brought against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange".

(3) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(l) shall include in ~~his~~ the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as provided by federal law (section 995, Internal Revenue Code) for all periods for which the DISC election is effective.

(4) A taxpayer who, in determining federal adjusted gross income, has reduced ~~his~~ the taxpayer's business deductions by an amount for wages and salaries for which a federal tax credit was elected under

section 44B of the Internal Revenue Code of 1954 or as that section may be labeled or amended is allowed to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must be made in the year the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation.

(5) Married taxpayers filing a joint federal return who must include part of their social security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

(6) A taxpayer receiving retirement disability benefits who has not attained age 65 by the end of the taxable year and who has retired as permanently and totally disabled may exclude from adjusted gross income up to $100 per week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion and before application of the two-earner married couple deduction exceeds $15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the limitation for income exceeding $15,000 is determined with respect to the spouses on their combined adjusted gross income. For the purpose of this subsection, permanently and totally disabled means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months. (Subsection ~~(2)(f)~~ (2)(g) terminates on occurrence of contingency--sec. 3, Ch. 634, L. 1983.) "

NEW SECTION. **Section 2. Effective date -- retroactive applicability.** [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1991.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0306, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act exempting from individual income taxation the distributions of pension income that are attributable to contributions made by the taxpayer to the extent that the contributions were taxed in another state, and providing an immediate effective date and a retroactive applicability date

ASSUMPTIONS:

1. This proposed law is applicable to tax years beginning after December 31, 1991 (tax year 1992 forward).
2. This proposal excludes the portion of pension and annuity income that is received as a distribution and is attributable to contributions taxed by another state, but not taxed by the federal government.
3. Pension and annuity income distributions related to contributions taxed by both another state and the federal government are already excluded from Montana income taxation under current law.
4. Only a small number of taxpayers will be affected by the proposed legislation (MDOR).
5. This legislation will cause a minimal impact on Department of Revenue expenditures (MDOR).

FISCAL IMPACT:

Expenditures:

There will be minimal impact of this legislation on Department of Revenue expenditures.

Revenues:

The negative impact on individual income tax revenues will be less than $100,000 in the biennium.

Dave Lewis 2-9-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Steve Doherty 2/9/95
STEVE DOHERTY, PRIMARY SPONSOR DATE
Fiscal Note for SB0306, as introduced

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