

SENATE BILL NO. 418

INTRODUCED BY

*Rep. Peavey* *Griffith Foster* *Archer*

BY REQUEST OF THE SENATE TAXATION COMMITTEE

*Peavey* *HARP* *Wulkeberg* *M. Hunsperger* *Holladay*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXABILITY OF TAX BENEFIT ITEMS FOR MONTANA INDIVIDUAL INCOME TAX PURPOSES; INCORPORATING THE FEDERAL TAX BENEFIT LAW RELATED TO THE RECOVERY OF AMOUNTS DEDUCTED IN A PRIOR TAX YEAR; DISALLOWING DEDUCTIONS FOR EXPENSES ASSOCIATED WITH THE PRODUCTION OF EXEMPT OR EXCLUDABLE INCOME; AMENDING SECTIONS 15-30-111 AND 15-30-123, 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 of another state;

(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); and

(e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the amount recovered reduced the taxpayer's Montana income tax in the year deducted.

(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:

- 1 (a) all interest income from obligations of the United States government, the state of Montana,  
2 county, municipality, district, or other political subdivision ~~thereof~~ of the state;
- 3 (b) interest income earned by a taxpayer age 65 or older in a ~~taxable tax~~ year up to and including  
4 \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;
- 5 (c) (i) except as provided in subsection (2)(c)(ii), the first \$3,600 of all pension and annuity income  
6 received as defined in 15-30-101;
- 7 (ii) for pension and annuity income described under subsection (2)(c)(i), as follows:
- 8 (A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total  
9 amount of the exclusion provided in (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in excess  
10 of \$30,000 as shown on the taxpayer's return;
- 11 (B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity  
12 income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided  
13 in subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of  
14 \$30,000 as shown on their joint return;
- 15 (d) all Montana income tax refunds or tax refund credits;
- 16 (e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);
- 17 (f) all tips covered by section 3402(k) of the Internal Revenue Code of 1954, as amended and  
18 applicable on January 1, 1983, received by persons for services rendered by them to patrons of premises  
19 licensed to provide food, beverage, or lodging;
- 20 (g) all benefits received under the workers' compensation laws;
- 21 (h) all health insurance premiums paid by an employer for an employee if attributed as income to  
22 the employee under federal law; ~~and~~
- 23 (i) all money received because of a settlement agreement or judgment in a lawsuit brought against  
24 a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";  
25 and
- 26 (j) the recovery during the tax year of any amount deducted in any prior tax year to the extent that  
27 the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted.
- 28 (3) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(l)  
29 shall include in his the shareholder's adjusted gross income the earnings and profits of the DISC in the same  
30 manner as provided by ~~federal law~~ (section 995, of the Internal Revenue Code) for all periods for which the

1 DISC election is effective.

2 (4) A taxpayer who, in determining federal adjusted gross income, has reduced his the taxpayer's  
 3 business deductions by an amount for wages and salaries for which a federal tax credit was elected under  
 4 section 44B of the Internal Revenue Code of 1954 or as that section may be labeled or amended is allowed  
 5 to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must  
 6 be made in the year the wages and salaries were used to compute the credit. In the case of a partnership  
 7 or small business corporation, the deduction must be made to determine the amount of income or loss of  
 8 the partnership or small business corporation.

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

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

26

27 **Section 2.** Section 15-30-123, MCA, is amended to read:

28 "**15-30-123. Nondeductible items in computing net income.** In computing net income, ~~no~~  
 29 deductions ~~shall in any case be~~ are not allowed in respect of for:

30 (1) personal, living, or family expenses;

1           (2) any amount paid out for new buildings or for permanent improvements or betterments made  
2 to increase the value of any property or estate;

3           (3) any amount expended in restoring property or in making good the exhaustion ~~thereof~~ of the  
4 property for which an allowance is or has been made; ~~or~~

5           (4) premiums paid on any life insurance policy covering the life of any officer or employee or of any  
6 person financially interested in any trade or business carried on by the taxpayer when the taxpayer is  
7 directly or indirectly a beneficiary under ~~such~~ the policy; or

8           (5) expenses that are associated with the production of exempt or excludable income."

9

10           NEW SECTION. **Section 3. Effective date -- retroactive applicability.** [This act] is effective on  
11 passage and approval and applies retroactively, within the meaning of 1-2-109, to tax years beginning after  
12 December 31, 1994.

13

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0418, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the taxability of tax benefit items for Montana individual income tax purposes; incorporating the federal tax benefit law related to the recovery of amounts deducted in a prior year; disallowing deductions for expenses associated with the production of exempt or excludable income; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. This bill applies to tax years beginning with tax year 1995.

FISCAL IMPACT:

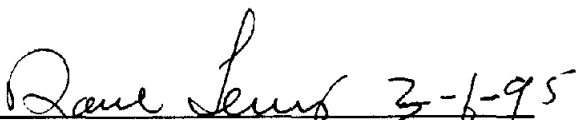
Expenditures:


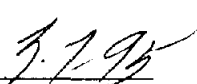
This bill has no impact on Department of Revenue administrative expenses.

Revenues:

The Department of Revenue estimates that the provisions of this bill will increase tax year liabilities by \$1,700,000.

|                       | FY96<br><u>Difference</u> | FY97<br><u>Difference</u> |
|-----------------------|---------------------------|---------------------------|
| Individual Income Tax | \$1,700,000               | \$1,700,000               |

  
DAVE LEWIS, BUDGET DIRECTOR    DATE  
Office of Budget and Program Planning

      
DELWYN GAGE, PRIMARY SPONSOR    DATE  
Fiscal Note for SB0418, as introduced

SB 418

## 1 SENATE BILL NO. 418

2 INTRODUCED BY GAGE, GROSFIELD, FOSTER, DEVLIN, ECK, REAM, HARP, VAN VALKENBURG,

3 COLE, M. HANSON, HIBBARD

4 BY REQUEST OF THE SENATE TAXATION COMMITTEE

5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXABILITY OF TAX BENEFIT ITEMS FOR  
7 MONTANA INDIVIDUAL INCOME TAX PURPOSES; INCORPORATING THE FEDERAL TAX BENEFIT LAW  
8 RELATED TO THE RECOVERY OF AMOUNTS DEDUCTED IN A PRIOR TAX YEAR; DISALLOWING  
9 DEDUCTIONS FOR EXPENSES ASSOCIATED WITH THE PRODUCTION OF EXEMPT OR EXCLUDABLE  
10 INCOME; AMENDING SECTIONS 15-30-111 AND 15-30-123, MCA; AND PROVIDING AN IMMEDIATE  
11 EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:14  
15 **Section 1.** Section 15-30-111, MCA, is amended to read:

16 **"15-30-111. Adjusted gross income.** (1) Adjusted gross income ~~shall be~~ is the taxpayer's federal  
17 income tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954 or as that  
18 section may be labeled or amended and in addition ~~shall include~~ includes the following:

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

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

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

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

27 (e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that  
28 the amount recovered reduced the taxpayer's Montana income tax in the year deducted.

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

1 chapter:

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

4 (b) interest income earned by a taxpayer age 65 or older in a ~~taxable~~ tax year up to and including  
5 \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

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

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

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

12 (B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity  
13 income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided  
14 in subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of  
15 \$30,000 as shown on their joint return;

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

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

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

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

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

24 (i) all money received because of a settlement agreement or judgment in a lawsuit brought against  
25 a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";  
26 and

27 (j) the recovery during the tax year of any amount deducted in any prior tax year to the extent that  
28 the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted.

29 (3) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(I)  
30 shall include in ~~his~~ the shareholder's adjusted gross income the earnings and profits of the DISC in the same

1 manner as provided by ~~federal law~~ (section 995, of the Internal Revenue Code) for all periods for which the  
2 DISC election is effective.

3 (4) A taxpayer who, in determining federal adjusted gross income, has reduced ~~his~~ the taxpayer's  
4 business deductions by an amount for wages and salaries for which a federal tax credit was elected under  
5 section 44B of the Internal Revenue Code of 1954 or as that section may be labeled or amended is allowed  
6 to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must  
7 be made in the year the wages and salaries were used to compute the credit. In the case of a partnership  
8 or small business corporation, the deduction must be made to determine the amount of income or loss of  
9 the partnership or small business corporation.

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

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

27

28 **Section 2.** Section 15-30-123, MCA, is amended to read:

29 "**15-30-123. Nondeductible items in computing net income.** In computing net income, ~~no~~  
30 deductions ~~shall in any case be~~ are not allowed ~~in respect of~~ for:



- 1 (1) personal, living, or family expenses;
- 2 (2) any amount paid out for new buildings or for permanent improvements or betterments made  
3 to increase the value of any property or estate;
- 4 (3) any amount expended in restoring property or in making good the exhaustion ~~thereof~~ of the  
5 property for which an allowance is or has been made; ~~or~~
- 6 (4) premiums paid on any life insurance policy covering the life of any officer or employee or of any  
7 person financially interested in any trade or business carried on by the taxpayer when the taxpayer is  
8 directly or indirectly a beneficiary under ~~such~~ the policy; or
- 9 (5) expenses that are associated with the production of exempt or excludable income. THIS  
10 SUBSECTION (5) DOES NOT APPLY TO THE DEDUCTIBILITY OF FEDERAL INCOME TAXES PAID ON  
11 INCOME THAT IS EXCLUDABLE OR EXEMPT FOR MONTANA INCOME TAX PURPOSES."

12

13 NEW SECTION. **Section 3. Effective date -- retroactive applicability.** [This act] is effective on  
14 passage and approval and applies retroactively, within the meaning of 1-2-109, to tax years beginning after  
15 December 31, 1994.

16

-END-

## 1 SENATE BILL NO. 418

2 INTRODUCED BY GAGE, GROSSFIELD, FOSTER, DEVLIN, ECK, REAM, HARP, VAN VALKENBURG,

3 COLE, M. HANSON, HIBBARD

4 BY REQUEST OF THE SENATE TAXATION COMMITTEE

5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXABILITY OF TAX BENEFIT ITEMS FOR  
7 MONTANA INDIVIDUAL INCOME TAX PURPOSES; INCORPORATING THE FEDERAL TAX BENEFIT LAW  
8 RELATED TO THE RECOVERY OF AMOUNTS DEDUCTED IN A PRIOR TAX YEAR; DISALLOWING  
9 DEDUCTIONS FOR EXPENSES ASSOCIATED WITH THE PRODUCTION OF EXEMPT OR EXCLUDABLE  
10 INCOME; AMENDING SECTIONS 15-30-111 AND 15-30-123, MCA; AND PROVIDING AN IMMEDIATE  
11 EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14  
15 Section 1. Section 15-30-111, MCA, is amended to read:

16 "15-30-111. **Adjusted gross income.** (1) Adjusted gross income ~~shall be~~ is the taxpayer's federal  
17 income tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954 or as that  
18 section may be labeled or amended and in addition ~~shall include~~ includes the following:

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

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

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

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

27 (e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that  
28 the amount recovered reduced the taxpayer's Montana income tax in the year deducted.

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

1 chapter:

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

4 (b) interest income earned by a taxpayer age 65 or older in a ~~taxable~~ tax year up to and including  
5 \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

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

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

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

12 (B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity  
13 income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided  
14 in subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of  
15 \$30,000 as shown on their joint return;

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

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

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

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

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

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

26 and

27 (j) the recovery during the tax year of any amount deducted in any prior tax year to the extent that  
28 the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted.

29 (3) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(l)  
30 shall include in ~~his~~ the shareholder's adjusted gross income the earnings and profits of the DISC in the same

1 manner as provided by ~~federal law (section 9957 of the Internal Revenue Code)~~ for all periods for which the  
2 DISC election is effective.

3 (4) A taxpayer who, in determining federal adjusted gross income, has reduced ~~his~~ the taxpayer's  
4 business deductions by an amount for wages and salaries for which a federal tax credit was elected under  
5 section 44B of the Internal Revenue Code of 1954 or as that section may be labeled or amended is allowed  
6 to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must  
7 be made in the year the wages and salaries were used to compute the credit. In the case of a partnership  
8 or small business corporation, the deduction must be made to determine the amount of income or loss of  
9 the partnership or small business corporation.

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

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

27  
28 **Section 2.** Section 15-30-123, MCA, is amended to read:  
29 "15-30-123. **Nondeductible items in computing net income.** In computing net income, ~~no~~  
30 deductions ~~shall in any case be~~ are not allowed in respect of for:

- 1 (1) personal, living, or family expenses;
- 2 (2) any amount paid out for new buildings or for permanent improvements or betterments made  
3 to increase the value of any property or estate;
- 4 (3) any amount expended in restoring property or in making good the exhaustion ~~thereof~~ of the  
5 property for which an allowance is or has been made; ~~or~~
- 6 (4) premiums paid on any life insurance policy covering the life of any officer or employee or of any  
7 person financially interested in any trade or business carried on by the taxpayer when the taxpayer is  
8 directly or indirectly a beneficiary under ~~such~~ the policy; or
- 9 (5) expenses that are associated with the production of exempt or excludable income. THIS  
10 SUBSECTION (5) DOES NOT APPLY TO THE DEDUCTIBILITY OF FEDERAL INCOME TAXES PAID ON  
11 INCOME THAT IS EXCLUDABLE OR EXEMPT FOR MONTANA INCOME TAX PURPOSES."

12

13 NEW SECTION. Section 3. Effective date -- retroactive applicability. [This act] is effective on  
14 passage and approval and applies retroactively, within the meaning of 1-2-109, to tax years beginning after  
15 December 31, 1994.

16

-END-

## 1 SENATE BILL NO. 418

2 INTRODUCED BY GAGE, GROSFIELD, FOSTER, DEVLIN, ECK, REAM, HARP, VAN VALKENBURG,  
3 COLE, M. HANSON, HIBBARD

4 BY REQUEST OF THE SENATE TAXATION COMMITTEE

5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXABILITY OF TAX BENEFIT ITEMS FOR  
7 MONTANA INDIVIDUAL INCOME TAX PURPOSES; INCORPORATING THE FEDERAL TAX BENEFIT LAW  
8 RELATED TO THE RECOVERY OF AMOUNTS DEDUCTED IN A PRIOR TAX YEAR; DISALLOWING  
9 DEDUCTIONS FOR EXPENSES ASSOCIATED WITH THE PRODUCTION OF EXEMPT OR EXCLUDABLE  
10 INCOME; AMENDING SECTIONS 15-30-111 AND 15-30-123, MCA; AND PROVIDING AN IMMEDIATE  
11 EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14  
15 **Section 1.** Section 15-30-111, MCA, is amended to read:

16 **"15-30-111. Adjusted gross income.** (1) Adjusted gross income ~~shall be~~ is the taxpayer's federal  
17 income tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954 or as that  
18 section may be labeled or amended and in addition ~~shall include~~ includes the following:

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

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

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

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

27 (e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that  
28 the amount recovered reduced the taxpayer's Montana income tax in the year deducted.

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

1 chapter:

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

4 (b) interest income earned by a taxpayer age 65 or older in a ~~taxable~~ tax year up to and including  
5 \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

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

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

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

12 (B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity  
13 income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided  
14 in subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of  
15 \$30,000 as shown on their joint return;

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

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

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

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

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

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

26 and

27 (j) the recovery during the tax year of any amount deducted in any prior tax year to the extent that  
28 the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted.

29 (3) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(l)  
30 shall include in ~~his~~ the shareholder's adjusted gross income the earnings and profits of the DISC in the same

1 manner as provided by ~~federal law (section 995, of the Internal Revenue Code)~~ for all periods for which the  
 2 DISC election is effective.

3 (4) A taxpayer who, in determining federal adjusted gross income, has reduced ~~his~~ the taxpayer's  
 4 business deductions by an amount for wages and salaries for which a federal tax credit was elected under  
 5 section 44B of the Internal Revenue Code of 1954 or as that section may be labeled or amended is allowed  
 6 to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must  
 7 be made in the year the wages and salaries were used to compute the credit. In the case of a partnership  
 8 or small business corporation, the deduction must be made to determine the amount of income or loss of  
 9 the partnership or small business corporation.

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

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

27

28 **Section 2.** Section 15-30-123, MCA, is amended to read:

29 **"15-30-123. Nondeductible items in computing net income.** In computing net income, ~~no~~  
 30 deductions ~~shall in any case be~~ are not allowed ~~in respect of~~ for:



- 1 (1) personal, living, or family expenses;
- 2 (2) any amount paid out for new buildings or for permanent improvements or betterments made  
3 to increase the value of any property or estate;
- 4 (3) any amount expended in restoring property or in making good the exhaustion ~~thereof~~ of the  
5 property for which an allowance is or has been made; ~~or~~
- 6 (4) premiums paid on any life insurance policy covering the life of any officer or employee or of any  
7 person financially interested in any trade or business carried on by the taxpayer when the taxpayer is  
8 directly or indirectly a beneficiary under ~~such~~ the policy; or
- 9 (5) expenses that are associated with the production of exempt or excludable income. THIS  
10 SUBSECTION (5) DOES NOT APPLY TO THE DEDUCTIBILITY OF FEDERAL INCOME TAXES PAID ON  
11 INCOME THAT IS EXCLUDABLE OR EXEMPT FOR MONTANA INCOME TAX PURPOSES."

12

13 NEW SECTION. **Section 3. Effective date -- retroactive applicability.** [This act] is effective on  
14 passage and approval and applies retroactively, within the meaning of 1-2-109, to tax years beginning after  
15 December 31, 1994.

16

-END-