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INTRODUCED BY *[Signature]* House BILL NO. 230

A BILL FOR AN ACT ENTITLED: "AN ACT RESTRUCTURING THE INCOME TAX RATES BY ESTABLISHING SEPARATE TAX RATES FOR TAXPAYERS USING THE MARRIED FILING JOINTLY FILER STATUS AND FOR TAXPAYERS USING THE MARRIED FILING SEPARATELY FILER STATUS; AMENDING SECTIONS 15-30-101, 15-30-103, 15-30-112, 15-30-122, 15-30-137, AND 15-30-142, 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 15-30-101, MCA, is amended to read:

"15-30-101. Definitions. For the purpose of this chapter, unless otherwise required by the context, the following definitions apply:

(1) "Base year structure" means the following elements of the income tax structure:

(a) the tax brackets established in 15-30-103, but unadjusted by ~~subsection (2) of 15-30-103(2)~~, (4), and (6), in effect on June 30 of the taxable year;

(b) the exemptions contained in 15-30-112, but unadjusted by 15-30-112(6), in effect on June 30 of the taxable year;

(c) the maximum standard deduction provided in 15-30-122, but unadjusted by ~~subsection (2) of 15-30-122(2)~~, in effect on June 30 of the taxable year.

(2) "Consumer price index" means the consumer price index, United States city average, for all items, using the 1967 base of 100 as published by the bureau of labor statistics of the U.S. department of labor.

(3) "Department" means the department of revenue.

(4) "Dividend" means any distribution made by a corporation out of its earnings or profits to its shareholders or members, whether in cash or in other property or in stock of the corporation, other than stock dividends.

(5) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

1 (6) "Foreign country" or "foreign government" means any jurisdiction other than the one embraced
2 within the United States, its territories, and its possessions.

3 (7) "Gross income" means the taxpayer's gross income for federal income tax purposes as defined
4 in section 61 of the Internal Revenue Code of 1954 or as that section may be labeled or amended,
5 excluding unemployment compensation included in federal gross income under the provisions of section
6 85 of the Internal Revenue Code of 1954 as amended.

7 (8) "Inflation factor" means a number determined for each taxable year by dividing the consumer
8 price index for June of the taxable year by the consumer price index for;

9 (a) June 1980; or

10 (b) with respect to 15-30-103(4) and (6), June 1997.

11 (9) "Information agents" includes all individuals, corporations, associations, and partnerships,
12 acting in whatever capacity, including lessees or mortgagors of real or personal property, fiduciaries,
13 brokers, real estate brokers, employers, and all officers and employees of the state or of any municipal
14 corporation or political subdivision of the state, having the control, receipt, custody, disposal, or payment
15 of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other
16 fixed or determinable annual or periodical gains, profits, and income with respect to which any person or
17 fiduciary is taxable under this chapter.

18 (10) "Knowingly" is as defined in 45-2-101.

19 (11) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by
20 this chapter.

21 (12) "Paid", for the purposes of the deductions and credits under this chapter, means paid or
22 accrued or paid or incurred, and the terms "paid or accrued" and "paid or incurred" must be construed
23 according to the method of accounting upon the basis of which the taxable income is computed under this
24 chapter.

25 (13) "Pension and annuity income" means:

26 (a) systematic payments of a definitely determinable amount from a qualified pension plan, as that
27 term is used in section 401 of the Internal Revenue Code, or systematic payments received as the result
28 of contributions made to a qualified pension plan that are paid to the recipient or recipient's beneficiary
29 upon the cessation of employment;

30 (b) payments received as the result of past service and cessation of employment in the uniformed

1 services of the United States;

2 (c) lump-sum distributions from pension or profitsharing plans to the extent that the distributions
3 are included in federal adjusted gross income;

4 (d) distributions from individual retirement, deferred compensation, and self-employed retirement
5 plans recognized under sections 401 through 408 of the Internal Revenue Code to the extent that the
6 distributions are not considered to be premature distributions for federal income tax purposes; or

7 (e) amounts received from fully matured, privately purchased annuity contracts after cessation of
8 regular employment.

9 (14) "Purposely" is as defined in 45-2-101.

10 (15) "Received", for the purpose of computation of taxable income under this chapter, means
11 received or accrued, and the term "received or accrued" must be construed according to the method of
12 accounting upon the basis of which the taxable income is computed under this chapter.

13 (16) "Resident" applies only to natural persons and includes, for the purpose of determining liability
14 to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled
15 in the state of Montana and any other person who maintains a permanent place of abode within the state
16 even though temporarily absent from the state and who has not established a residence elsewhere.

17 (17) "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders
18 in proportion to their previous holdings.

19 (18) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and
20 exemptions provided for in this chapter.

21 (19) "Taxable year" or "tax year" means the taxpayer's taxable year for federal income tax
22 purposes.

23 (20) "Taxpayer" includes any person or fiduciary, resident or nonresident, subject to a tax imposed
24 by this chapter and does not include corporations."

25

26 **Section 2.** Section 15-30-103, MCA, is amended to read:

27 **"15-30-103. Rate of tax.** (1) There ~~shall~~ must be levied, collected, and paid for each ~~taxable tax~~
28 year ~~commencing on or after December 31, 1968,~~ upon the taxable income of every taxpayer filing as a
29 single filer or head of household subject to this tax, after making allowance for exemptions and deductions
30 as ~~hereinafter~~ provided in this chapter, a tax on the following brackets of taxable income as adjusted under

1 subsection (2) at the following rates:

- 2 (a) on the first \$1,000 of taxable income or any part ~~thereof~~ of that amount, 2%;
- 3 (b) on the next \$1,000 of taxable income or any part ~~thereof~~, of that amount, 3%;
- 4 (c) on the next \$2,000 of taxable income or any part ~~thereof~~ of that amount, 4%;
- 5 (d) on the next \$2,000 of taxable income or any part ~~thereof~~ of that amount, 5%;
- 6 (e) on the next \$2,000 of taxable income or any part ~~thereof~~ of that amount, 6%;
- 7 (f) on the next \$2,000 of taxable income or any part ~~thereof~~ of that amount, 7%;
- 8 (g) on the next \$4,000 of taxable income or any part ~~thereof~~ of that amount, 8%;
- 9 (h) on the next \$6,000 of taxable income or any part ~~thereof~~ of that amount, 9%;
- 10 (i) on the next \$15,000 of taxable income or any part ~~thereof~~ of that amount, 10%;
- 11 (j) on any taxable income in excess of \$35,000 or any part ~~thereof~~ of that amount, 11%.

12 (2) By November 1 of each year, the department shall multiply the bracket amount contained in
 13 subsection (1) by the inflation factor in 15-30-101(8)(a) for that taxable year and round the cumulative
 14 brackets to the nearest \$100. The resulting adjusted brackets are effective for that taxable year and shall
 15 must be used as the basis for imposition of the tax in subsection (1) of this section.

16 (3) There must be levied, collected, and paid for each taxable year commencing on or after
 17 December 31, 1996, upon the taxable income of all married taxpayers filing joint returns subject to this tax,
 18 after making allowance for exemptions and deductions as provided in this chapter, a tax on the following
 19 brackets of taxable income as adjusted under subsection (4) at the following rates:

- 20 (a) on the first \$2,600 of taxable income or any part of that amount, 2%;
- 21 (b) on the next \$2,600 of taxable income or any part of that amount, 3%;
- 22 (c) on the next \$5,200 of taxable income or any part of that amount, 4%;
- 23 (d) on the next \$6,200 of taxable income or any part of that amount, 5%;
- 24 (e) on the next \$8,200 of taxable income or any part of that amount, 6%;
- 25 (f) on the next \$9,800 of taxable income or any part of that amount, 7%;
- 26 (g) on the next \$10,200 of taxable income or any part of that amount, 8%;
- 27 (h) on the next \$11,800 of taxable income or any part of that amount, 9%;
- 28 (i) on the next \$16,800 of taxable income or any part of that amount, 10%;
- 29 (j) on any taxable income in excess of \$73,400 or any part of that amount, 11%.

30 (4) By November 1 of each year, the department shall multiply the bracket amount contained in

1 subsection (3) by the inflation factor provided for in 15-30-101(8)(b) for that taxable year and round the
 2 cumulative brackets to the nearest \$100. The resulting adjusted brackets are effective for that taxable year
 3 and must be used as the basis for imposition of the tax in subsection (3).

4 (5) There must be levied, collected, and paid for each taxable year commencing on or after
 5 December 31, 1996, upon the taxable income of all married taxpayers filing separate returns subject to this
 6 tax, after making allowance for exemptions and deductions as provided in this chapter, a tax on the
 7 following brackets of taxable income as adjusted under subsection (6) at the following rates:

8 (a) on the first \$1,300 of taxable income or any part of that amount, 2%;

9 (b) on the next \$1,300 of taxable income or any part of that amount, 3%;

10 (c) on the next \$2,600 of taxable income or any part of that amount, 4%;

11 (d) on the next \$3,100 of taxable income or any part of that amount, 5%;

12 (e) on the next \$4,100 of taxable income or any part of that amount, 6%;

13 (f) on the next \$4,900 of taxable income or any part of that amount, 7%;

14 (g) on the next \$5,100 of taxable income or any part of that amount, 8%;

15 (h) on the next \$5,900 of taxable income or any part of that amount, 9%;

16 (i) on the next \$8,400 of taxable income or any part of that amount, 10%;

17 (j) on any taxable income in excess of \$36,700 or any part of that amount, 11%.

18 (6) By November 1 of each year, the department shall multiply the bracket amount contained in
 19 subsection (5) by the inflation factor provided for in 15-30-101(8)(b) for that taxable year and round the
 20 cumulative brackets in a manner that results in a bracket amount equal to one-half the amount of the
 21 corresponding bracket amount for married taxpayers filing jointly. The resulting adjusted brackets are
 22 effective for that taxable year and must be used as the basis for imposition of the tax in subsection (3)."

23
 24 **Section 3.** Section 15-30-112, MCA, is amended to read:

25 **"15-30-112. Exemptions.** (1) Except as provided in subsection (6), in the case of an individual,
 26 the exemptions provided by subsections (2) through (5) ~~shall~~ must be allowed as deductions in computing
 27 taxable income.

28 (2) (a) An exemption of \$800 ~~shall~~ must be allowed ~~for taxable years beginning after December~~
 29 ~~31, 1978,~~ for the taxpayer.

30 (b) An additional exemption of \$800 ~~shall~~ must be allowed ~~for taxable years beginning after~~

1 ~~December 31, 1978~~, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the
 2 spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and
 3 is not the dependent of another taxpayer.

4 (3) (a) An additional exemption of \$800 ~~shall~~ must be allowed ~~for taxable years beginning after~~
 5 ~~December 31, 1978~~, for the taxpayer if ~~he~~ the taxpayer has attained the age of 65 before the close of his
 6 ~~taxable~~ the taxpayer's tax year.

7 (b) An additional exemption of \$800 ~~shall~~ must be allowed ~~for taxable years beginning after~~
 8 ~~December 31, 1978~~, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the
 9 spouse has attained the age of 65 before the close of ~~such taxable~~ the tax year and, for the calendar year
 10 in which the ~~taxable~~ tax year of the taxpayer begins, has no gross income and is not the dependent of
 11 another taxpayer.

12 (4) (a) An additional exemption of \$800 ~~shall~~ must be allowed ~~for taxable years beginning after~~
 13 ~~December 31, 1978~~, for the taxpayer if ~~he~~ the taxpayer is blind at the close of his ~~taxable~~ the taxpayer's
 14 tax year.

15 (b) An additional exemption of \$800 ~~shall~~ must be allowed ~~for taxable years beginning after~~
 16 ~~December 31, 1978~~, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the
 17 spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross
 18 income and is not the dependent of another taxpayer. For the purposes of this subsection (4)(b), the
 19 determination of whether the spouse is blind ~~shall~~ must be made as of the close of the taxable year of the
 20 taxpayer, except that if the spouse dies during ~~such taxable~~ the tax year, ~~such~~ the determination ~~shall~~ must
 21 be made as of the time of ~~such~~ death.

22 (c) For purposes of this subsection (4), an individual is blind only if ~~his~~ the individual's central visual
 23 acuity does not exceed 20/200 in the better eye with correcting lenses or if ~~his~~ the individual's visual acuity
 24 is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest
 25 diameter of the visual field subtends an angle no greater than 20 degrees.

26 (5) (a) An exemption of \$800 ~~shall~~ be allowed ~~for taxable years beginning after December 31,~~
 27 ~~1978~~, for each dependent:

28 (i) whose gross income for the calendar year in which the ~~taxable~~ tax year of the taxpayer begins
 29 is less than \$800; or

30 (ii) who is a child of the taxpayer and who:

1 (A) has not attained the age of 19 years at the close of the calendar year in which the ~~taxable tax~~
2 year of the taxpayer begins; or

3 (B) is a student.

4 (b) ~~No~~ An exemption ~~shall~~ may not be allowed under this subsection for any dependent who has
5 made a joint return with ~~his~~ the dependent's spouse for the ~~taxable tax~~ year beginning in the calendar year
6 in which the ~~taxable tax~~ year of the taxpayer begins.

7 (c) For purposes of subsection (5)(a)(ii), the term "child" means an individual who is a son,
8 stepson, daughter, or stepdaughter of the taxpayer.

9 (d) For purposes of subsection (5)(a)(ii)(B), the term "student" means an individual who, during
10 each of 5 calendar months during the calendar year in which the ~~taxable tax~~ year of the taxpayer begins:

11 (i) is a full-time student at an educational institution; or

12 (ii) is pursuing a full-time course of institutional on-farm training under the supervision of an
13 accredited agent of an educational institution or of a state or political subdivision of a state. For purposes
14 of this subsection (5)(d)(ii), the term "educational institution" means only an educational institution which
15 normally maintains a regular faculty and curriculum and normally has a regularly organized body of students
16 in attendance at the place where its educational activities are carried on.

17 (6) The department, by November 1 of each year, shall multiply all the exemptions provided in this
18 section by the inflation factor in 15-30-101(8)(a) for that taxable year and round the product to the nearest
19 \$10. The resulting adjusted exemptions are effective for that taxable year and ~~shall~~ must be used in
20 calculating the tax imposed in 15-30-103."

21
22 **Section 4.** Section 15-30-122, MCA, is amended to read:

23 **"15-30-122. Standard deduction.** (1) A standard deduction equal to 20% of adjusted gross income
24 is allowed if elected by the taxpayer on a return. The standard deduction is in lieu of all deductions allowed
25 under 15-30-121. The minimum standard deduction is \$665, as adjusted under the provisions of subsection
26 (2), or 20% of adjusted gross income, whichever is greater, to a maximum standard deduction of \$1,500,
27 as adjusted under the provisions of subsection (2). However, in the case of a single joint return of husband
28 and wife or in the case of a single individual who qualifies to file as a head of household on the federal
29 income tax return, the minimum standard deduction is \$1,330, as adjusted under the provisions of
30 subsection (2), or 20% of adjusted gross income, whichever is greater, to a maximum standard deduction

1 of \$3,000, as adjusted under the provisions of subsection (2). The standard deduction may not be allowed
2 to either the husband or the wife if the tax of one of the spouses is determined without regard to the
3 standard deduction. For purposes of this section, the determination of whether an individual is married must
4 be made as of the last day of the tax year unless one of the spouses dies during the tax year, in which case
5 the determination must be made as of the date of death.

6 (2) By November 1 of each year, the department shall multiply both the minimum and the maximum
7 standard deduction for single returns by the inflation factor in 15-30-101(8)(a) for that tax year and round
8 the product to the nearest \$10. The minimum and maximum standard deduction for joint returns and
9 qualified head of household returns must be twice the amount of the minimum and maximum standard
10 deduction for single returns. The resulting adjusted deductions are effective for that tax year and must be
11 used in calculating the tax imposed in 15-30-103."

12
13 **Section 5.** Section 15-30-137, MCA, is amended to read:

14 **"15-30-137. Determination of tax of estates and trusts.** The amount of tax must be determined
15 from taxable income of an estate or trust in the same manner as the tax on the taxable income of
16 ~~individuals~~ taxpayers filing as a single filer or head of household, by applying the rates contained in
17 15-30-103. Credits allowed individuals under Title 15, chapter 30, also apply to estates and trusts when
18 applicable."

19
20 **Section 6.** Section 15-30-142, MCA, is amended to read:

21 **"15-30-142. Returns and payment of tax -- penalty and interest -- refunds -- credits.** (1) Each
22 single individual and each married individual not filing a joint return with a spouse and having a gross
23 income for the tax year of more than \$1,500, as adjusted under the provisions of subsection (7), and
24 married individuals not filing separate returns and having a combined gross income for the tax year of more
25 than \$3,000, as adjusted under the provisions of subsection (7), are liable for a return to be filed on forms
26 and according to rules that the department may prescribe. The gross income amounts referred to in the
27 preceding sentence must be increased by \$800, as adjusted under the provisions of 15-30-112(6), for each
28 additional personal exemption allowance that the taxpayer is entitled to claim for the taxpayer and the
29 taxpayer's spouse under 15-30-112(3) and (4). A nonresident shall file a return if the taxpayer's gross
30 income for the tax year derived from sources within Montana exceeds the amount of the personal

1 exemption that the taxpayer is entitled to claim for the taxpayer and the taxpayer's spouse under the
2 provisions of 15-30-112(2) through (4).

3 (2) In accordance with instructions set forth by the department, each taxpayer who is married and
4 living with husband or wife and is required to file a return may, at the taxpayer's option, file a joint return
5 with husband or wife even though one of the spouses has neither gross income nor deductions. If a joint
6 return is made, the tax must be computed on the aggregate taxable income and the liability with respect
7 to the tax is joint and several. If a joint return has been filed for a tax year, the spouses may not file
8 separate returns after the time for filing the return of either has expired unless the department consents.

9 (3) If a taxpayer is unable to make the taxpayer's own return, the return must be made by an
10 authorized agent or by a guardian or other person charged with the care of the person or property of the
11 taxpayer.

12 (4) All taxpayers, including but not limited to those subject to the provisions of 15-30-202 and
13 15-30-241, shall compute the amount of income tax payable and shall, at the time of filing the return
14 required by this chapter, pay to the department any balance of income tax remaining unpaid after crediting
15 the amount withheld, as provided by 15-30-202, and any payment made by reason of an estimated tax
16 return provided for in 15-30-241. However, the tax computed must be greater by \$1 than the amount
17 withheld and paid by estimated return as provided in this chapter. If the amount of tax withheld and the
18 payment of estimated tax exceed by more than \$1 the amount of income tax as computed, the taxpayer
19 is entitled to a refund of the excess.

20 (5) As soon as practicable after the return is filed, the department shall examine and verify the tax.

21 (6) If the amount of tax as verified is greater than the amount paid, the excess must be paid by
22 the taxpayer to the department within 60 days after notice of the amount of the tax as computed, with
23 interest added at the rate of 9% a year or fraction of a year on the additional tax. In that case, there may
24 not be a penalty because of the understatement if the deficiency is paid within 60 days after the first notice
25 of the amount is mailed to the taxpayer.

26 (7) By November 1 of each year, the department shall multiply the minimum amount of gross
27 income necessitating the filing of a return by the inflation factor in 15-30-101(8)(a) for the tax year. These
28 adjusted amounts are effective for that tax year, and persons who have gross incomes less than these
29 adjusted amounts are not required to file a return.

30 (8) Individual income tax forms distributed by the department for each tax year must contain

1 instructions and tables based on the adjusted base year structure for that tax year."

2

3 NEW SECTION. **Section 7. Effective date -- retroactive applicability.** [This act] is effective on
4 passage and approval and applies retroactively, within the meaning of 1-2-109, to tax years beginning after
5 December 31, 1996.

6

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0230, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act restructuring the income tax rates by establishing separate tax rates for taxpayers using the married filing jointly filer status and for taxpayers using the married filing separately filer status; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. This proposal applies to tax years beginning after December 31, 1996.
2. This proposal has no impact on taxpayers who file as single filers, or head of household filers; nor does it impact the liability of estates and trusts.
3. This proposal does not **require** two-earner married couples to file a joint return.
4. The proposed rate tables for married couples result in overall revenue-neutrality.
5. The department will not process fewer forms under this proposal, but will process only one column of information, rather than two columns of information, for the majority of married couples currently filing separately. This will reduce the amount of keypunching required to process income tax returns.
6. This proposal will result in the following administrative cost savings for the Department: the Operations Division will save two grade 7 data entry positions and 0.14FTE programmer hours, and reduce TSO system charges an estimated \$4,200 per year. The Income Tax division save 2.28FTE in office audit and reduce operating costs by \$6,581 per year. Because the Department will not begin processing 1997 tax returns until late in fiscal 1998, these saving will accrue beginning first in fiscal year 1999.

FISCAL IMPACT:

Expenditures:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
FTE	0.00	(4.42)
Personal Services	\$ 0	\$ (97,141)
Operating Expense	<u>0</u>	<u>(10,781)</u>
Total (General Fund)	\$ 0	\$(107,922)

Revenues:

There is no impact to revenues under this proposal.

Net Impact:

	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
Administrative Savings (General Fund)	\$ 0	\$(107,922)

Dave Lewis 1-16-97
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Robert Story 1-17-97
 ROBERT STORY, PRIMARY SPONSOR DATE