

House BILL NO. 596

INTRODUCED BY Wiseman Coner
A. Douglas

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING COMMON TRUST FUNDS, AS DEFINED BY FEDERAL LAW, FROM THE CORPORATION LICENSE TAX AND CORPORATION INCOME TAX; AMENDING SECTION 15-31-102, 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 15-31-102, MCA, is amended to read:

"15-31-102. Organizations exempt from tax -- unrelated business income not exempt. (1) Except as provided in subsection (3), there ~~shall~~ may not be taxed under this title any income received by any:

(a) labor, agricultural, or horticultural organization;

(b) fraternal beneficiary, society, order, or association operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system and providing for the payment of life, sick, accident, or other benefits to the members of ~~such~~ the society, order, or association or their dependents;

(c) cemetery company owned and operated exclusively for the benefit of its members;

(d) corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;

(e) business league, chamber of commerce, or board of trade not organized for profit, ~~and~~ no part of the net income of which inures to the benefit of any private stockholder or individual;

(f) civic league or organization not organized for profit but operated exclusively for the promotion of social welfare;

(g) club organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net income of which inures to the benefit of any private stockholder or members;

(h) farmers' or other mutual hail, cyclone, or fire insurance company, mutual ditch or irrigation company, mutual or cooperative telephone company, or like organization of a purely local character, the

1 income of which consists solely of assessments, dues, and fees collected from members for the sole
2 purpose of meeting its expenses;

3 (i) cooperative association or corporation engaged in the business of operating a rural electrification
4 system or systems for the transmission or distribution of electrical energy on a cooperative basis;

5 (j) corporations or associations organized for the exclusive purpose of holding title to property,
6 collecting income ~~therefrom~~ from the property, and turning over the entire amount ~~thereof~~ of the income,
7 less expenses, to an organization ~~which~~ that itself is exempt from the tax imposed by this title;

8 (k) wool and sheep pool, which is an association owned and operated by agricultural producers
9 organized to market association members' wool and sheep, the income of which consists solely of
10 assessments, dues, and fees collected from members for the sole purpose of meeting its expenses. Income,
11 for this purpose, does not include expenses and money distributed to members contributing wool and
12 sheep;

13 (l) corporation that qualifies as a domestic international sales corporation (DISC) under the
14 provisions of section 991, et seq., of the Internal Revenue Code and that has in effect for the entire taxable
15 year a valid election under federal law to be treated as a DISC. If a corporation makes ~~such~~ that an election
16 under federal law, each person who at any time is a shareholder of ~~such~~ the corporation is subject to
17 taxation under Title 15, chapter 30, on the earnings and profits of this DISC in the same manner as
18 provided by federal law for all periods for which the election is effective.

19 (m) farmers' market association not organized for profit, ~~and~~ no part of the net income of which
20 inures to the benefit of any member, but is organized for the sole purpose of providing for retail distribution
21 of homegrown vegetables, handicrafts, and other products either grown or manufactured by the seller;

22 (n) common trust fund as defined in 26 U.S.C. 584(a).

23 (2) In determining the license fee to be paid under this part, there ~~shall~~ may not be included any
24 earnings derived from any public utility managed or operated by any subdivision of the state or from the
25 exercise of any governmental function.

26 (3) Any unrelated business income, as defined by section 512 of the Internal Revenue Code, of
27 1954, as amended, earned by any exempt corporation resulting in a federal unrelated business income tax
28 liability of more than \$100 ~~shall~~ must be taxed as other corporation income is taxed under this title. An
29 exempt corporation subject to taxation on unrelated business income under this section ~~must~~ shall file a
30 copy of its federal exempt organization business income tax return on which it reports its unrelated

1 business income with the department of revenue."

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3 NEW SECTION. **Section 2. 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 HB0596, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act exempting common trust funds, as defined by federal law, from the corporation license tax and corporation income tax; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. This bill is effective upon passage and approval and applies retroactively to tax years beginning after December 31, 1996.
2. This bill exempts common trust funds as defined in 26 U.S.C. 584(a).

FISCAL IMPACT:

Currently the Department of Revenue does not tax common trust funds as defined in 26 U.S.C. 584(a), so there would be no revenue impact.

 3.6.97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

WILLIAM WISEMAN, PRIMARY SPONSOR DATE

Fiscal Note for HB0596, as introduced

HB 596

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INTRODUCED BY

Wiseman Coner
S. Douglas

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(d) corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;

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(f) civic league or organization not organized for profit but operated exclusively for the promotion of social welfare;

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4 system or systems for the transmission or distribution of electrical energy on a cooperative basis;

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14 provisions of section 991, et seq., of the Internal Revenue Code and that has in effect for the entire taxable
15 year a valid election under federal law to be treated as a DISC. If a corporation makes ~~such~~ that an election
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21 of homegrown vegetables, handicrafts, and other products either grown or manufactured by the seller;

22 (n) common trust fund as defined in 26 U.S.C. 584(a).

23 (2) In determining the license fee to be paid under this part, there ~~shall~~ may not be included any
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30 copy of its federal exempt organization business income tax return on which it reports its unrelated

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3 NEW SECTION. **Section 2. 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
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INTRODUCED BY WiseMAN Conner
A. Freyler

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-END-

APPROVED BY COM
ON TAXATION

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House BILL NO. 596

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INTRODUCED BY

Wiseman
Conner
H. Hoyle

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2 INTRODUCED BY WISEMAN, EWER, L. TAYLOR

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