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INTRODUCED BY Senate Senate BILL NO. 388  
Senate Estrella

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING LOTTERY WINNINGS RECEIVED BY A NONPROFIT CORPORATION FROM THE CORPORATION LICENSE 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 not be taxed under this title any~~ the income received by ~~any the~~ the following organizations is exempt from taxation:

- (a) a labor, agricultural, or horticultural organization;
- (b) a 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) a cemetery company owned and operated exclusively for the benefit of its members;
- (d) a corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, ~~no part of the net income of which inures~~ does not inure to the benefit of any private stockholder or individual;
- (e) a nonprofit business league, chamber of commerce, or board of trade, ~~not organized for profit and no part of the net income of which inures~~ does not inure to the benefit of any private stockholder or individual;
- (f) a nonprofit civic league or organization ~~not organized for profit but~~ operated exclusively for the promotion of social welfare;
- (g) a club organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, ~~no part of the net income of which inures~~ does not inure to the benefit of any private stockholder or ~~members~~ member;



1 (h) a farmers' or other mutual hail, cyclone, or fire insurance company, mutual ditch or irrigation  
 2 company, mutual or cooperative telephone company, or like organization of a purely local character, the  
 3 income of which consists solely of assessments, dues, and fees collected from members for the sole  
 4 purpose of meeting its expenses;

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

8 (j) ~~a corporations corporation or associations association~~ corporation or association organized for the exclusive purpose of  
 9 holding title to property, collecting income ~~therefrom~~ from the property, and turning over the entire amount  
 10 ~~thereof of the income~~, less expenses, to an organization ~~which itself~~ that is also exempt from the tax  
 11 imposed by this title;

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

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

23 (m) a nonprofit farmers' market association ~~not organized for profit and no part of the net income~~  
 24 ~~of which inures to the benefit of any member, but is~~ organized for the sole purpose of providing for retail  
 25 distribution of homegrown vegetables, handicrafts, and other products either grown or manufactured by  
 26 the seller. For the purposes of this section, the net income of the association may not inure to the benefit  
 27 of any member of the association.

28 (2) ~~In determining the license fee to be paid under this part, there shall not be included any~~ For the  
 29 purposes of this title, income does not include the earnings derived from any by a public utility managed  
 30 or operated by any a subdivision of the state or the earnings derived from the exercise of any governmental

1 function.

2 (3) ~~(a) Any~~ Except as provided in subsection (3)(b), any unrelated business income, as defined by  
3 section 512 of the Internal Revenue Code, of 1954, as amended, earned by ~~any~~ an exempt corporation  
4 resulting in a federal unrelated business income tax liability of more than \$100 ~~shall be~~ is taxed as other  
5 corporation income is taxed under this title. An exempt corporation subject to taxation on unrelated  
6 business income under this section ~~must~~ shall file a copy of its federal exempt organization business income  
7 tax return on which it reports its unrelated business income with the department of revenue.

8 (b) Winnings received by an exempt corporation from a lottery game operated pursuant to Title 23,  
9 chapter 7, are not subject to tax. To qualify for the exemption under this subsection (3)(b), the use of the  
10 winnings must be related to the purpose for which the corporation received its exemption."

11

12 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval and  
13 applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1996.

14

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0388, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

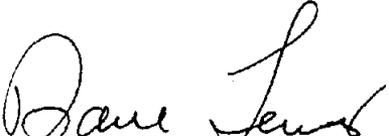
An act exempting lottery winnings received by a nonprofit corporation from the corporation license tax; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. This bill exempts lottery winnings by a tax-exempt corporation. For the winnings to qualify for exemption, they must be used by the corporation to perform the activities for which the corporation was given exemption.
2. Under current law, if an exempt corporation used lottery winnings for the purposes for which the corporation was exempt, the winnings would not be considered unrelated business income for federal purposes and would not be taxed at either the federal or state level.

FISCAL IMPACT:

Given the assumptions above, this proposal does not affect the current law tax treatment of lottery winnings by nonprofit corporations. Therefore, there is no revenue impact due to this proposal.

 3-7-97  
DAVE LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

 3/10/97  
VIVIAN BROOKE, PRIMARY SPONSOR      DATE

Fiscal Note for SB0388, as introduced

**SB 388**