

EXHIBIT 2
DATE 2.14.05
HB 276

Amendments to House Bill No. 276
1st Reading Copy

Requested by Representative Hal Jacobson

For the House Taxation Committee

Prepared by Jeff Martin
February 11, 2005 (8:42am)

1. Title, line 5.

Following: "TAXES"

Insert: "OR WHO PAY MONTANA INCOME TAXES AS NONRESIDENTS"

2. Title, line 6.

Following: "PROPERTY;"

Insert: "ALLOWING A REDUCTION IN THE SURTAX BASED ON A
NONRESIDENT'S MONTANA SOURCE INCOME;"

3. Title, page 1, lines 7 and 8.

Strike: "NO" on line 7 through "MISFORTUNE" on line 8

Insert: "ARE NOT REQUIRED TO FILE AN INCOME TAX RETURN BECAUSE OF
GROSS INCOME LIMITATIONS FOR FILING A TAX RETURN; REQUIRING
PROPERTY OWNERS TO PROVIDE CERTAIN INFORMATION TO THE
DEPARTMENT OF REVENUE; ALLOWING A REFUND OF THE SURTAX UPON
APPLICATION; AMENDING SECTIONS 15-7-305, 15-8-301, AND 15-
30-303, MCA"

4. Page 1, line 25.

Following: "replacement"

Insert: "-- application for refund"

5. Page 1, line 27.

Following: "year"

Insert: "or has paid income taxes as a nonresident under 15-30-
105 in the prior year"

6. Page 1.

Following: line 28

Insert: "(b) If the property owner has paid income taxes as a
nonresident under 15-30-105, the surtax must be reduced by
the same percentage that the property owner's Montana source
income bears to the property owner's total income from all
sources."

Renumber: subsequent subsection

7. Page 1, line 30.

Strike: "general fund"

Insert: "special revenue fund for forest fire suppression"

8. Page 2, line 3.

Strike: ", because" through "income taxes"

Insert: "the owner was not required to file a tax return under 15-30-142"

9. Page 2.

Following: line 9

Insert: "(3) Information provided to county treasurers under 15-30-303 is confidential.

(4) A person who is assessed the surtax under this section may apply for a refund to the department and county treasurer on a form provided by the department. The person shall provide information that the person paid income taxes in Montana or satisfies the requirements of subsection (2)(a) or (2)(b)."

Insert: **Section 2.** Section 15-7-305, MCA, is amended to read:
"15-7-305. **Realty transfer certificate required.** (1) The county clerk and recorder shall require the parties to the transaction or their agents or representatives to complete a certificate declaring the consideration paid or to be paid for the real estate transferred.

(2) An instrument or deed evidencing a transfer of real estate may not be accepted for recordation until the certificate has been received by the county clerk and recorder. The validity or effectiveness of an instrument or deed between the parties to it is not affected by failure to comply with the provisions in this part.

(3) Except as provided in 85-2-423, the form of certificate must be prescribed by the department, ~~of revenue, and the~~ The form must provide for the disclosure by the person to whom the property is transferred of the person's social security number, federal identification number, or both. The department shall provide an adequate supply of forms to each county clerk and recorder in the state. The department shall coordinate with the department of natural resources and conservation and the water court to develop and provide the forms required under 85-2-423 and this part.

(4) The clerk and recorder shall prepare a certificate for each contract for deed filed for recording.

(5) The clerk and recorder shall transmit each executed certificate to the department.

(6) If the person does not provide a social security number or federal identification number, whichever is applicable, the

person must be assessed the surtax as provided in [section 1]. However, the surtax must be refunded if the person provides the required information to the department as provided in [section 1(4)] and the information demonstrates that the person is not subject to the surtax."

{Internal References to 15-7-305: None.}"

Insert: Section 3. Section 15-8-301, MCA, is amended to read:

"15-8-301. Statement -- what to contain. (1) The department may require from a person a statement under oath setting forth specifically the person's social security number, federal identification number, or both and all the real and personal property owned by, in possession of, or under the control of the person at midnight on January 1. The statement must be in writing, showing separately:

(a) all property belonging to, claimed by, or in the possession or under the control or management of the person;

(b) all property belonging to, claimed by, or in the possession or under the control or management of any firm of which the person is a member;

(c) all property belonging to, claimed by, or in the possession or under the control or management of any corporation of which the person is president, secretary, cashier, or managing agent;

(d) the county in which the property is situated or in which the property is liable to taxation and, if liable to taxation in the county in which the statement is made, also the city, town, school district, road district, or other revenue districts in which the property is situated;

(e) an exact description of all lands, improvements, and personal property;

(f) all depots, shops, stations, buildings, and other structures erected on the space covered by the right-of-way and all other property owned by any person owning or operating any railroad within the county.

(2) The department shall notify the taxpayer in the statement for reporting personal property owned by a business or used in a business that the statement is for reporting business equipment and other business personal property described in Title 15, chapter 6, part 1. A taxpayer owning exempt business equipment is subject to limited reporting requirements; however, all new businesses shall report their class eight property so that the department can determine the market value of the property. The department shall by rule develop reporting requirements for business equipment to limit the annual reporting of exempt business equipment to the extent feasible.

(3) Whenever one member of a firm or one of the proper officers of a corporation has made a statement showing the property of the firm or corporation, another member of the firm or another officer is not required to include the property in that person's statement but the statement must show the name of

the person or officer who made the statement in which the property is included.

(4) The fact that a statement is not required or that a person has not made a statement, under oath or otherwise, does not relieve the person's property from taxation."

{Internal References to 15-8-301:

15-8-303 X 15-8-309 X 15-8-601 x}"

Insert: Section 4. Section 15-30-303, MCA, is amended to read:

"**15-30-303. Confidentiality of tax records.** (1) Except as provided in subsections (7) and (8) or in accordance with a proper judicial order or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

(a) the amount of income or any particulars set forth or disclosed in any individual report or individual return required under this chapter or any other information secured in the administration of this chapter; or

(b) any federal return or federal return information disclosed on any return or report required by rule of the department or under this chapter.

(2) (a) The officers charged with the custody of the reports and returns may not be required to produce them or evidence of anything contained in them in an action or proceeding in a court, except in an action or proceeding:

(i) to which the department is a party under the provisions of this chapter or any other taxing act; or

(ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes when the reports or facts shown by the reports are directly involved in the action or proceedings.

(b) The court may require the production of and may admit in evidence only as much of the reports or of the facts shown by the reports as are pertinent to the action or proceedings.

(3) This section does not prohibit:

(a) the delivery to a taxpayer or the taxpayer's authorized representative of a certified copy of any return or report filed in connection with the taxpayer's tax;

(b) the publication of statistics classified to prevent the identification of particular reports or returns and the items of particular reports or returns; or

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom an action or proceeding has been instituted in accordance with the provisions of 15-30-311.

(4) Reports and returns must be preserved for at least 3 years and may be preserved until the department orders them to be destroyed.

(5) Any offense against subsections (1) through (4) is punishable by a fine not exceeding \$1,000 or by imprisonment in

the county jail for a term not exceeding 1 year, or both. If the offender is an officer or employee of the state, the offender must be dismissed from office and may not hold any public office in this state for a period of 1 year after dismissal.

(6) This section may not be construed to prohibit the department from providing taxpayer return information and information from employers' payroll withholding reports to:

(a) the department of labor and industry to be used for the purpose of investigation and prevention of noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; or

(b) the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud, and abuse under the workers' compensation program.

(7) The department may permit the commissioner of internal revenue of the United States or the proper officer of any state imposing a tax upon the incomes of individuals or the authorized representative of either officer to inspect the return of income of any individual or may furnish to the officer or an authorized representative an abstract of the return of income of any individual or supply the officer with information concerning an item of income contained in a return or disclosed by the report of an investigation of the income or return of income of an individual, but the permission may be granted or information furnished only if the statutes of the United States or of the other state grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter.

(8) The department shall furnish:

(a) to the department of justice all information necessary to identify those persons qualifying for the additional exemption for blindness pursuant to 15-30-112(4), for the purpose of enabling the department of justice to administer the provisions of 61-5-105;

(b) to the department of public health and human services information acquired under 15-30-301, pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public assistance fraud and abuse, provided notice to the applicant has been given;

(c) to the department of labor and industry for the purpose of prevention and detection of fraud and abuse in and eligibility for benefits under the unemployment compensation and workers' compensation programs information on whether a taxpayer who is the subject of an ongoing investigation by the department of labor and industry is an employee, an independent contractor, or self-employed;

(d) to the department of fish, wildlife, and parks specific information that is available from income tax returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and fishing licenses;

(e) to the board of regents information required under 20-26-1111;

(f) to the legislative fiscal analyst and the office of budget and program planning individual income tax information as provided in 5-12-303. The information provided to the office of budget and program planning must be the same as the information provided to the legislative fiscal analyst.

(g) to the department of transportation farm income information based on the most recent income tax return filed by an applicant applying for a refund under 15-70-223 or 15-70-362, provided that notice to the applicant has been given as provided in 15-70-223 and 15-70-362. The information obtained by the department of transportation is subject to the same restrictions on disclosure as are individual income tax returns.

(h) to county treasurers specific information that is available from income tax returns to establish whether a person is subject to the property tax surtax under [section 1]."

{Internal References to 15-30-303:

5-12-303 x 15-6-193 x 15-6-193 x 15-68-815x
17-7-111 x 53-2-211x}"

Renumber: subsequent sections"

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