

SB 521

FROM RANDY NEWBERG, CPA

EXHIBIT 2  
DATE 4.14.05  
SB 521

Dear Legislator:

As a CPA, I am writing to you to express my concern about Senate Bill 521.

As I read this bill, it does not look good for a some of my clients that are locally owned Montana corporations. This bill will add a 4.75% corporate license tax (based on "book income") for corporations that have over \$20,000,000 in sales or more than \$4,000,000 of payroll.

I also find it peculiar that this is called a corporate license fee increase. Lets not kid ourselves, it is a tax increase.

I understand your intent is to capture more tax revenue from large, publicly-traded, companies, mostly from out of state. Maybe my CPA practice is unique, but I doubt it. I have several clients that will affected by this provision, and none of then are the wealthy out of state corporations I believe you are trying to catch. Some of them are construction suppliers, some are developers, some are wholesalers, some are distributors, car dealers, etc. They are all locally owned and long-time Montana businesses. I would bet all of you know one or more people in the Gallatin Valley employed by these businesses.

There seems to be a presumption that because these clients have large revenues, they are inherently profitable. Such is not the case. Many of these businesses operate on very slim profit margins, have high debt service, and therefore have low cash flow, relative to gross sales. In some cases, this tax will be a large percentage of cash flow, after accounting for equipment purchases and expansion.

For example, a company that falls under this tax may have \$400,000 profit, but after \$150,000 or debt principal payments and \$200,000 of equipment purchases, has only \$50,000 of remaining cash flow. Yet, their "book income" is still close to \$400,000, as for "book" purposes, we are not allowed to accelerate the depreciation in the same manner we can for tax purposes. So out of the \$50,000 of net cash flow, the company must pay 4.75% of \$400,000, or \$19,000 in this new license fee. This \$19,000 may only be 4.75% of net income, but it is 38% of net cash flow. I use this illustration to show you how this bill will make it more difficult for businesses to expand by purchasing new equipment, buildings, or land, or to take on debt for expansion.

Furthermore, as I read this legislation, it appears that not much "accounting" consideration was given. The bill wants to use "book

income"  
for purposes of this calculation. Book income consists of many items that are very subjective and not representative of cash flow. The utilization of this terminology is ripe for abuse and interpretation. And trust me, given the punitive level of tax that will be assessed, those of us employed as advisors to these corporations will find ways to legally reduce the tax.

If the intent of this legislature is to improve the business climate in Montana, this is a huge step in the wrong direction. In addition to our 6.75% corporate income tax and 6.9% individual income tax for owners of S-corporations and LLC's, this additional 4.75% is quite ridiculous.

I wish that it were not tax season and I had more time to elaborate about the bad effects of this bill, as well intended as you may think it is.

Since this bill has already passed the Senate, I strongly urge those of you in the House of Representatives to think about the adverse affect this legislation may have on locally owned Montana businesses.

Website link:

<http://data.opi.state.mt.us/bills/2005/billhtml/SB0521.htm>

Sincerely,

Randy Newberg, CPA

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