SENATE TAXATION
EXHIBIT NO. 9
DATE 3-21-05
BILL NO. 513

Reportable transaction" means:

Transaction" means an act or failure to act and includes:

(a) all of the factual elements relevant to the expected tax treatment of any investment, entity, plan, or arrangement; and

(b) any series of steps carried out as part of a plan.

1. **transaction described in U.S. treasury regulation 1.6011-4(b), 26 CFR 1.6011-4(b);**

2. **an abusive tax shelter;**

"Abusive tax shelter" means any scheme the principal purpose of which is to evade or underreport Montana or federal income taxes and includes:

(a) a listed transaction;

Listed transaction" means a transaction that:

(a) the U.S. department of the treasury identifies as a listed tax avoidance transaction by notice, regulation, or other form of published guidance; or

(b) is the same as or substantially similar to a type of transaction that the department determines is, and by rule identifies as, a tax avoidance transaction.

(b) a partnership or other entity;

(c) any investment plan or arrangement; and

(d) any other plan or arrangement.

(3) a listed transaction;

a listed transaction;

Listed transaction" means a transaction that:

(a) the U.S. department of the treasury identifies as a listed tax avoidance transaction by notice, regulation, or other form of published guidance; or

(b) is the same as or substantially similar to a type of transaction that the department determines is, and by rule identifies as, a tax avoidance transaction.

(4) an inconsistent filing position; or

Inconsistent filing position" means treatment of an item of income, deduction, or credit or any combination of these items on a Montana income tax return for a tax year ending after December 31, 2004, that is inconsistent in amount, character, or timing with treatment of the item or combination of items on an income tax return filed with another state.

(5) a noneconomic substance transaction.

"Noneconomic substance transaction" means a transaction that lacks economic substance, as determined by state or federal law, and includes:

(a) the creation or use of an entity that is disregarded because the entity was not created or used for a valid business purpose; and

(b) the creation or use of an entity for the principal purpose of avoiding liability for taxes or of underreporting taxes imposed by Title 15, chapter 30 or 31.