

SENATE BILL NO. 353

INTRODUCED BY R. LAIBLE

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING AN INDIVIDUAL INCOME TAX DEDUCTION FOR MOTOR FUEL EXPENSES RELATED TO TRAVEL IN MONTANA; PHASING OUT THE DEDUCTION ABOVE A CERTAIN INCOME LEVEL; AMENDING SECTIONS 15-30-121 AND 15-30-122, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Deduction for nonbusiness motor fuel expenses.** (1) Except as provided in subsections (2) and (4), a taxpayer who itemizes deductions or elects the standard deduction in filing an individual income tax return may, in computing net income, claim a deduction for actual motor fuel expenses not to exceed \$1,500 or \$3,000 if married filing jointly for the nonbusiness use of light vehicles, as defined in 61-1-101, for travel in the state.

(2) If the Montana adjusted gross income of the taxpayer or the combined Montana adjusted gross income of married taxpayers exceeds \$55,000 for the tax year, the amount of the deduction or combined deduction allowed under subsection (1) must be reduced by \$100 for each \$1,000 or any portion of \$1,000 of Montana adjusted gross income or combined adjusted gross income in excess of \$55,000.

(3) The deduction allowed for motor fuel expenses under subsection (1) must be substantiated by adequate records or by sufficient evidence corroborating the taxpayer's statement of the amount of motor fuel expenses paid in the tax year.

(4) A taxpayer who claims the deduction under subsection (1) may not include in the deduction motor fuel expenses related to charitable activities, moving expenses, medical expenses, or any other nonbusiness deduction allowed for motor fuels.

**Section 2.** Section 15-30-121, MCA, is amended to read:

**"15-30-121. Deductions allowed in computing net income.** (1) In computing net income, there are allowed as deductions:

(a) the items referred to in sections 161, including the contributions referred to in 33-15-201(5)(b), and



1 211 of the Internal Revenue Code, 26 U.S.C. 161 and 211, subject to the following exceptions, which are not  
2 deductible:

3 (i) items provided for in 15-30-123;  
4 (ii) state income tax paid;  
5 (iii) premium payments for medical care as provided in subsection (1)(g)(i);  
6 (iv) long-term care insurance premium payments as provided in subsection (1)(g)(ii); and  
7 (v) a charitable contribution using a charitable gift annuity unless the annuity is a qualified charitable gift  
8 annuity as defined in 33-20-701;

9 (b) federal income tax paid within the tax year, not to exceed \$5,000 for each taxpayer filing singly, head  
10 of household, or married filing separately or \$10,000 if married and filing jointly;

11 (c) expenses of household and dependent care services as outlined in subsections (1)(c)(i) through  
12 (1)(c)(iii) and (2) and subject to the limitations and rules as set out in subsections (1)(c)(iv) through (1)(c)(vi), as  
13 follows:

14 (i) expenses for household and dependent care services necessary for gainful employment incurred for:

15 (A) a dependent under 15 years of age for whom an exemption can be claimed;

16 (B) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross income  
17 do not apply, who is unable to provide self-care because of physical or mental illness; and

18 (C) a spouse who is unable to provide self-care because of physical or mental illness;

19 (ii) employment-related expenses incurred for the following services, but only if the expenses are incurred  
20 to enable the taxpayer to be gainfully employed:

21 (A) household services that are attributable to the care of the qualifying individual; and

22 (B) care of an individual who qualifies under subsection (1)(c)(i);

23 (iii) expenses incurred in maintaining a household if over half of the cost of maintaining the household  
24 is furnished by an individual or, if the individual is married during the applicable period, is furnished by the  
25 individual and the individual's spouse;

26 (iv) the amounts deductible in subsections (1)(c)(i) through (1)(c)(iii), subject to the following limitations:

27 (A) a deduction is allowed under subsection (1)(c)(i) for employment-related expenses incurred during  
28 the year only to the extent that the expenses do not exceed \$4,800;

29 (B) expenses for services in the household are deductible under subsection (1)(c)(i) for  
30 employment-related expenses only if they are incurred for services in the taxpayer's household, except that

1 employment-related expenses incurred for services outside the taxpayer's household are deductible, but only if  
2 incurred for the care of a qualifying individual described in subsection (1)(c)(i)(A) and only to the extent that the  
3 expenses incurred during the year do not exceed:

4 (I) \$2,400 in the case of one qualifying individual;

5 (II) \$3,600 in the case of two qualifying individuals; and

6 (III) \$4,800 in the case of three or more qualifying individuals;

7 (v) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the tax year during  
8 which the expenses are incurred, the amount of the employment-related expenses incurred, to be reduced by  
9 one-half of the excess of the combined adjusted gross income over \$18,000;

10 (vi) for purposes of this subsection (1)(c):

11 (A) married couples shall file a joint return or file separately on the same form;

12 (B) if the taxpayer is married during any period of the tax year, employment-related expenses incurred  
13 are deductible only if:

14 (I) both spouses are gainfully employed, in which case the expenses are deductible only to the extent  
15 that they are a direct result of the employment; or

16 (II) the spouse is a qualifying individual described in subsection (1)(c)(i)(C);

17 (C) an individual legally separated from the individual's spouse under a decree of divorce or of separate  
18 maintenance may not be considered as married;

19 (D) the deduction for employment-related expenses must be divided equally between the spouses when  
20 filing separately on the same form;

21 (E) payment made to a child of the taxpayer who is under 19 years of age at the close of the tax year  
22 and payments made to an individual with respect to whom a deduction is allowable under 15-30-112(5) are not  
23 deductible as employment-related expenses;

24 (d) in the case of an individual, political contributions determined in accordance with the provisions of  
25 section 218(a) and (b) of the Internal Revenue Code of 1954 (now repealed) that were in effect for the tax year  
26 that ended December 31, 1978;

27 (e) that portion of expenses for organic fertilizer and inorganic fertilizer produced as a byproduct allowed  
28 as a deduction under 15-32-303 that was not otherwise deducted in computing taxable income;

29 (f) contributions to the child abuse and neglect prevention program provided for in 52-7-101, subject to  
30 the conditions set forth in 15-30-156;

1 (g) the entire amount of premium payments made by the taxpayer, except premiums deducted in  
2 determining Montana adjusted gross income, or for which a credit was claimed under 15-30-128, for:

3 (i) insurance for medical care, as defined in 26 U.S.C. 213(d), for coverage of the taxpayer, the  
4 taxpayer's dependents, and the parents and grandparents of the taxpayer; and

5 (ii) long-term care insurance policies or certificates that provide coverage primarily for any qualified  
6 long-term care services, as defined in 26 U.S.C. 7702B(c), for:

7 (A) the benefit of the taxpayer for tax years beginning after December 31, 1994; or

8 (B) the benefit of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the  
9 taxpayer for tax years beginning after December 31, 1996;

10 (h) light vehicle registration fees, as provided for in 61-3-321(2) and 61-3-562, paid during the tax year;

11 ~~and~~

12 (i) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-209,  
13 81-7-118, or 81-7-201; and

14 (j) motor fuel expenses, as provided in [section 1], that are not otherwise deducted in computing net  
15 income.

16 (2) (a) Subject to the conditions of subsection (1)(c), a taxpayer who operates a family day-care home  
17 or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's own child  
18 and at least one unrelated child in the ordinary course of business may deduct employment-related expenses  
19 considered to have been paid for the care of the child.

20 (b) The amount of employment-related expenses considered to have been paid by the taxpayer is equal  
21 to the amount that the taxpayer charges for the care of a child of the same age for the same number of hours of  
22 care. The employment-related expenses apply regardless of whether any expenses actually have been paid.  
23 Employment-related expenses may not exceed the amounts specified in subsection (1)(c)(iv)(B).

24 (c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the  
25 deduction under this subsection (2)."

26

27 **Section 3.** Section 15-30-122, MCA, is amended to read:

28 **"15-30-122. Standard deduction.** (1) A standard deduction equal to 20% of adjusted gross income is  
29 allowed if elected by the taxpayer on a return. ~~The~~ Except as provided in [section 1], the standard deduction is  
30 in lieu of all deductions allowed under 15-30-121. The minimum standard deduction is \$1,580, as adjusted under

1 the provisions of subsection (2), or 20% of adjusted gross income, whichever is greater, to a maximum standard  
2 deduction of \$3,560, as adjusted under the provisions of subsection (2). However, in the case of a single joint  
3 return of husband and wife or in the case of a single individual who qualifies to file as a head of household on the  
4 federal income tax return, the minimum standard deduction is twice the amount of the minimum standard  
5 deduction for a single return, as adjusted under the provisions of subsection (2), or 20% of adjusted gross  
6 income, whichever is greater, to a maximum standard deduction of twice the amount of the maximum standard  
7 deduction for a single return, as adjusted under the provisions of subsection (2). The standard deduction may  
8 not be allowed to either the husband or the wife if the tax of one of the spouses is determined without regard to  
9 the standard deduction. For purposes of this section, the determination of whether an individual is married must  
10 be made as of the last day of the tax year unless one of the spouses dies during the tax year, in which case the  
11 determination must be made as of the date of death.

12 (2) By November 1 of each year, the department shall multiply both the minimum and the maximum  
13 standard deduction for single returns by the inflation factor for that tax year and round the product to the nearest  
14 \$10. The resulting adjusted deductions are effective for that tax year and must be used in calculating the tax  
15 imposed in 15-30-103."

16  
17 **NEW SECTION. Section 4. Codification instruction.** [Section 1] is intended to be codified as an  
18 integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part 1, apply to [section 1].

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20 **NEW SECTION. Section 5. Effective date.** [This act] is effective on passage and approval.

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22 **NEW SECTION. Section 6. Retroactive applicability.** [This act] applies retroactively, within the  
23 meaning of 1-2-109, to tax years beginning after December 31, 2006.

24 - END -