

## SENATE BILL NO. 166

INTRODUCED BY J. BALLYEAT, BROWN, HINKLE, STEINBEISSER, ARTHUN, VINCENT, OLSON,  
SHOCKLEY, WITTICH, JONES, JACKSON, HUTTON, BRENDEN, BLASDEL, MOORE, BUTTREY, LAKE,  
GIBSON, ESSMANN, WALKER

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A TAXPAYER THAT HAS AN INDIVIDUAL INCOME TAX LIABILITY FOR THE CURRENT YEAR OF \$200 OR LESS TO PAY THE ENTIRE AMOUNT OF THE TAX DUE, WITHOUT PENALTY OR INTEREST, WHEN FILING AN EXTENDED RETURN; AMENDING SECTIONS 15-1-216 AND 15-30-2604, 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 15-1-216, MCA, is amended to read:

**"15-1-216. Uniform penalty and interest assessments for violation of tax provisions -- applicability -- exceptions -- uniform provision for interest on overpayments.** (1) A person who fails to file a required tax return or other report with the department by the due date, including any extension of time, of the return or report must be assessed a late filing penalty of \$50 or the amount of the tax due, whichever is less.

(2) (a) Except as provided in 15-30-2604(2)(c) and subsection (2)(b) of this section, a person who fails to pay a tax when due must be assessed a late payment penalty of 1.2% a month or fraction of a month on the unpaid tax. The penalty may not exceed 12% of the tax due.

(b) A person who fails to pay a tax when due under chapter 30, part 25, chapter 53, chapter 65, or chapter 68 must be assessed a late payment penalty of 1.5% a month or fraction of a month on the unpaid tax. The penalty may not exceed 15% of the tax due.

(c) ~~The~~ Except as provided in 15-30-2604(2)(c), the penalty imposed under subsection (2)(a) or (2)(b) of this section accrues on the unpaid tax from the original due date of the return regardless of whether the taxpayer has received an extension of time for filing a return.

(3) A person who purposely or knowingly, as those terms are defined in 45-2-101, fails to file a return when due or fails to file a return within 60 days after receiving written notice from the department that a return must be filed is liable for an additional penalty of not less than \$1,000 or more than \$10,000. The department may

1 bring an action in the name of the state to recover the penalty and any delinquent taxes.

2 (4) (a) ~~Interest~~ Except as provided in 15-30-2604(2)(c), interest on taxes not paid when due must be  
3 assessed by the department. The department shall determine the interest rates established under subsection  
4 (4)(a)(i) for each calendar year by rule subject to the conditions of this subsection (4)(a). Interest rates on taxes  
5 not paid when due for a calendar year are as follows:

6 (i) For individual income taxes not paid when due, including delinquent taxes and deficiency  
7 assessments, the interest rate is equal to the underpayment rate for individual taxpayers established by the  
8 secretary of the United States department of the treasury pursuant to section 6621 of the Internal Revenue Code,  
9 26 U.S.C. 6621, for the fourth quarter of the preceding year or 8%, whichever is greater.

10 (ii) For all taxes other than individual income taxes not paid when due, including delinquent taxes and  
11 deficiency assessments, the interest rate is 12%.

12 (b) Interest on delinquent taxes and on deficiency assessments is computed from the original due date  
13 of the return until the tax is paid. ~~Interest~~ Except as provided in 15-30-2604(2)(c), interest accrues daily on the  
14 unpaid tax from the original due date of the return regardless of whether the taxpayer has received an extension  
15 of time for filing the return.

16 (5) (a) Except as provided in subsection (5)(b), this section applies to taxes, fees, and other assessments  
17 imposed under Titles 15 and 16 [and the former 85-2-276].

18 (b) This section does not apply to:

19 (i) property taxes; or

20 (ii) gasoline and vehicle fuel taxes collected by the department of transportation pursuant to Title 15,  
21 chapter 70.

22 (6) Any changes to interest rates apply to any current outstanding tax balance, regardless of the rate in  
23 effect at the time the tax accrued.

24 (7) ~~Penalty~~ Except as provided in 15-30-2604, penalty and interest must be calculated and assessed  
25 commencing with the due date of the return.

26 (8) Deficiency assessments are due and payable 30 days from the date of the deficiency assessment.

27 (9) Interest allowed for the overpayment of taxes or fees is the same rate as is charged for unpaid or  
28 delinquent taxes. For the purposes of this subsection, interest charged for unpaid or delinquent taxes is the  
29 interest rate determined in subsection (4)(a)(i). (Bracketed language in subsection (5)(a) terminates June 30,  
30 2020--sec. 18, Ch. 288, L. 2005.)"

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**Section 2.** Section 15-30-2604, MCA, is amended to read:

**"15-30-2604. Time for filing -- extensions of time.** (1) A return must be made to the department on or before the 15th day of the 4th month following the close of the taxpayer's fiscal year, or if the return is made on the basis of the calendar year, then the return must be made on or before ~~the 15th day of April 15~~ following the close of the calendar year. Each return must set forth those facts that the department considers necessary for the proper enforcement of this chapter. There must be attached to the return the affidavit or affirmation of the persons making the return to the effect that the statements contained in the return are true. Blank forms of return must be furnished by the department upon application, but failure to secure the form does not relieve ~~any~~ the taxpayer of the obligation to make any return required under this chapter. Each taxpayer liable for a tax under this chapter shall pay a minimum tax of \$1.

(2) (a) Subject to subsections (2)(b) and (2)(c), a taxpayer is allowed an automatic extension of time for filing the taxpayer's return of up to 6 months following the date prescribed for filing of the tax return.

(b) (i) ~~On~~ Except as provided in subsection (2)(c), on or before the due date of the return, the taxpayer shall pay by estimated tax payments, withholding tax, or a combination of estimated tax payments and withholding tax 90% of the current year's tax liability or 100% of the previous year's tax liability.

~~(e)(ii)~~ (ii) The remaining tax, penalty, and interest of the current year's tax liability not paid under subsection (2)(b)(i) must be paid when the return is filed. Penalty and interest must be added to the tax due as provided in 15-1-216.

(c) A taxpayer that has a tax liability of \$200 or less for the current year may pay the entire amount of the tax, without penalty or interest under 15-1-216, on or before the due date of the return under subsection (2)(a). If the tax is not paid on or before the due date of the return under subsection (2)(a), penalty and interest must be added to the tax due as provided in 15-1-216 from the original due date of the return.

(3) The department may grant an additional extension of time for the filing of a return whenever in its judgment good cause exists.

(4) ~~The~~ Except as provided in subsection (2)(c), the extension of time for filing a return is not an extension of time for the payment of taxes."

~~NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.~~

1 ~~NEW SECTION. Section 4. Retroactive applicability.~~ [This act] applies retroactively, within the  
2 meaning of 1-2-109, to tax years beginning after December 31, 2010.

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4 NEW SECTION. SECTION 3. APPLICABILITY. [THIS ACT] APPLIES TO THE TAX REPORTING PERIODS BEGINNING  
5 AFTER DECEMBER 31, 2011.

6 - END -