

1 SENATE BILL NO. 419

2 INTRODUCED BY R. ERICKSON

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT DECOUPLING THE FEDERAL TEMPORARY BONUS
5 DEPRECIATION ALLOWANCE AND THE AMOUNT OF ANY FEDERAL TEMPORARY INCREASE EXPENSE
6 ALLOWED TO BE CLAIMED FOR CERTAIN DEPRECIABLE PROPERTY FROM MONTANA CORPORATE
7 LICENSE TAXES, CORPORATION INCOME TAXES, AND INDIVIDUAL INCOME TAXES; PROVIDING FOR
8 AN ADDBACK OF THE AMOUNT OF THE SPECIAL DEPRECIATION ALLOWANCE IN COMPUTING
9 MONTANA INCOME; ALLOWING THE DEDUCTION OF THE ADDBACK OVER A 5-YEAR PERIOD
10 BEGINNING WITH TAX YEAR 2012; AMENDING SECTIONS 15-30-2110, 15-30-2152, 15-31-113, AND
11 15-31-114, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE
12 APPLICABILITY DATE."

13

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

15

16 NEW SECTION. **Section 1. Federal bonus depreciation -- expensing certain business assets --**
17 **addback -- deduction of addback.** (1) (a) For tax years beginning after September 8, 2010, any amount of
18 temporary bonus depreciation allowance received by the taxpayer for assets placed in service after September
19 8, 2010, and before January 1, 2012, must be added back to gross income or, in the case of taxes imposed under
20 15-30-2103, to adjusted gross income. As used in this section, "temporary bonus depreciation allowance" means
21 an amount of extended bonus depreciation received under section 401 of the federal Tax Relief, Unemployment
22 Insurance Reauthorization, and Job Creation Act of 2010, codified under 26 U.S.C. 168(k).

23 (b) For tax years beginning after September 8, 2010, any amount claimed by a taxpayer under temporary
24 authority to treat a larger amount of the cost of certain depreciable business property as an expense under 26
25 U.S.C. 179(b), as authorized under section 402 of the federal Tax Relief, Unemployment Insurance
26 Reauthorization, and Job Creation Act of 2010, may not be claimed under Title 15, chapter 30 or 31, and the
27 difference between the permanent expense limitation and the temporarily increased limitation in 26 U.S.C. 179(b)
28 claimed by a taxpayer must be added back to gross income or, in the case of taxes imposed under 15-30-2103,
29 to adjusted gross income.

30 (2) (a) The amount of the addback to gross income or adjusted gross income determined under

1 subsection (1)(a) is deductible from gross income under 15-31-114 or adjusted gross income for taxes imposed
2 under 15-30-2110 in the 5 tax years beginning after December 31, 2011, in five equal annual installments.

3 (b) For a small business corporation or other pass-through entity, the addback under subsection (1)(a)
4 and subsequent annual deductions of the addback under subsection (2)(a) must be distributed to the partners,
5 members, shareholders, or other owners in the same manner as income or loss is distributed for income tax
6 purposes.

7 (c) The provisions of subsection (1)(a) do not adjust or modify the adjusted basis of any asset.

8

9 **Section 2.** Section 15-30-2110, MCA, is amended to read:

10 **"15-30-2110. Adjusted gross income.** (1) Subject to subsection (13), adjusted gross income is the
11 taxpayer's federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62,
12 and in addition includes the following:

13 (a) (i) interest received on obligations of another state or territory or county, municipality, district, or other
14 political subdivision of another state, except to the extent that the interest is exempt from taxation by Montana
15 under federal law;

16 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C.
17 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

18 (b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a
19 reduction of Montana income tax liability;

20 (c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue
21 Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;

22 (d) depreciation or amortization taken on a title plant as defined in 33-25-105;

23 (e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the
24 amount recovered reduced the taxpayer's Montana income tax in the year deducted;

25 (f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of
26 the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution
27 of the same estate or trust for the same tax period; and

28 (g) except for exempt-interest dividends described in subsection (2)(a)(ii), for tax years commencing after
29 December 31, 2002, the amount of any dividend to the extent that the dividend is not included in federal adjusted
30 gross income;

1 (h) the amount of any addback of the federal temporary bonus depreciation allowance as required under
2 [section 1(1)(a)]; and

3 (i) the amount of any temporary expense claimed for certain depreciable property as required under
4 [section 1(1)(b)].

5 (2) Notwithstanding the provisions of the Internal Revenue Code, adjusted gross income does not
6 include the following, which are exempt from taxation under this chapter:

7 (a) (i) all interest income from obligations of the United States government, the state of Montana, or a
8 county, municipality, district, or other political subdivision of the state and any other interest income that is exempt
9 from taxation by Montana under federal law;

10 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C.
11 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);

12 (b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including
13 \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

14 (c) (i) except as provided in subsection (2)(c)(ii), the first \$3,600 of all pension and annuity income
15 received as defined in 15-30-2101;

16 (ii) for pension and annuity income described under subsection (2)(c)(i), as follows:

17 (A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total
18 amount of the exclusion provided in subsection (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in
19 excess of \$30,000 as shown on the taxpayer's return;

20 (B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity
21 income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided in
22 subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of \$30,000
23 as shown on their joint return;

24 (d) all Montana income tax refunds or tax refund credits;

25 (e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

26 (f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section
27 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January
28 1, 1983, received by a person for services rendered to patrons of premises licensed to provide food, beverage,
29 or lodging;

30 (g) all benefits received under the workers' compensation laws;

- 1 (h) all health insurance premiums paid by an employer for an employee if attributed as income to the
2 employee under federal law;
- 3 (i) all money received because of a settlement agreement or judgment in a lawsuit brought against a
4 manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";
- 5 (j) principal and income in a medical care savings account established in accordance with 15-61-201
6 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the taxpayer or a
7 dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;
- 8 (k) principal and income in a first-time home buyer savings account established in accordance with
9 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase
10 of a single-family residence;
- 11 (l) contributions withdrawn from a family education savings account or earnings withdrawn from a family
12 education savings account for qualified higher education expenses, as defined in 15-62-103, of a designated
13 beneficiary;
- 14 (m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the
15 recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;
- 16 (n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of
17 the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution
18 of the same estate or trust for the same tax period;
- 19 (o) deposits, not exceeding the amount set forth in 15-30-3003, deposited in a Montana farm and ranch
20 risk management account, as provided in 15-30-3001 through 15-30-3005, in any tax year for which a deduction
21 is not provided for federal income tax purposes;
- 22 (p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant
23 to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the child and
24 taxpayer meet the filing requirements in 15-30-2602.
- 25 (q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or
26 withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303;
- 27 (r) that part of the refundable credit provided in 33-22-2006 that reduces Montana tax below zero; ~~and~~
- 28 (s) the amount of the gain recognized from the sale or exchange of a mobile home park as provided in
29 15-31-163; and
- 30 (t) annual deductions of the addback of the federal temporary bonus depreciation allowance under the

1 provisions of [section 1(2)].

2 (3) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(l) shall
3 include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as
4 provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the DISC election
5 is effective.

6 (4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business
7 deductions by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and
8 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and
9 salaries paid regardless of the credit taken. The deduction must be made in the year that the wages and salaries
10 were used to compute the credit. In the case of a partnership or small business corporation, the deduction must
11 be made to determine the amount of income or loss of the partnership or small business corporation.

12 (5) Married taxpayers filing a joint federal return who are required to include part of their social security
13 benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the federal
14 base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad retirement
15 benefits when they file separate Montana income tax returns. The federal base must be split equally on the
16 Montana return.

17 (6) Married taxpayers filing a joint federal return who are allowed a capital loss deduction under section
18 1211 of the Internal Revenue Code, 26 U.S.C. 1211, and who file separate Montana income tax returns may
19 claim the same amount of the capital loss deduction that is allowed on the federal return. If the allowable capital
20 loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss
21 must be split equally on each return.

22 (7) In the case of passive and rental income losses, married taxpayers filing a joint federal return and
23 who file separate Montana income tax returns are not required to recompute allowable passive losses according
24 to the federal passive activity rules for married taxpayers filing separately under section 469 of the Internal
25 Revenue Code, 26 U.S.C. 469. If the allowable passive loss is clearly attributable to one spouse, the loss must
26 be shown on that spouse's return; otherwise, the loss must be split equally on each return.

27 (8) Married taxpayers filing a joint federal return in which one or both of the taxpayers are allowed a
28 deduction for an individual retirement contribution under section 219 of the Internal Revenue Code, 26 U.S.C.
29 219, and who file separate Montana income tax returns may claim the same amount of the deduction that is
30 allowed on the federal return. The deduction must be attributed to the spouse who made the contribution.

1 (9) (a) Married taxpayers filing a joint federal return who are allowed a deduction for interest paid for a
2 qualified education loan under section 221 of the Internal Revenue Code, 26 U.S.C. 221, and who file separate
3 Montana income tax returns may claim the same amount of the deduction that is allowed on the federal return.
4 The deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted
5 gross income.

6 (b) Married taxpayers filing a joint federal return who are allowed a deduction for qualified tuition and
7 related expenses under section 222 of the Internal Revenue Code, 26 U.S.C. 222, and who file separate Montana
8 income tax returns may claim the same amount of the deduction that is allowed on the federal return. The
9 deduction may be split equally on each return or in proportion to each taxpayer's share of federal adjusted gross
10 income.

11 (10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end
12 of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income
13 up to \$100 a week received as wages or payments in lieu of wages for a period during which the employee is
14 absent from work due to the disability. If the adjusted gross income before this exclusion exceeds \$15,000, the
15 excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the
16 taxpayer's eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the
17 limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined adjusted
18 gross income. For the purpose of this subsection, "permanently and totally disabled" means unable to engage
19 in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting
20 or expected to last at least 12 months.

21 (11) An individual who contributes to one or more accounts established under the Montana family
22 education savings program may reduce adjusted gross income by the lesser of \$3,000 or the amount of the
23 contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not in excess of \$3,000, for
24 the spouses' contributions to the accounts. Spouses may jointly elect to treat half of the total contributions made
25 by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection
26 applies only with respect to contributions to an account of which the account owner, as defined in 15-62-103, is
27 the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a
28 Montana resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions
29 that reduced adjusted gross income.

30 (12) (a) A taxpayer may exclude the amount of the loan payment received pursuant to subsection

1 (12)(a)(iv), not to exceed \$5,000, from the taxpayer's adjusted gross income if the taxpayer:

2 (i) is a health care professional licensed in Montana as provided in Title 37;

3 (ii) is serving a significant portion of a designated geographic area, special population, or facility
4 population in a federally designated health professional shortage area, a medically underserved area or
5 population, or a federal nursing shortage county as determined by the secretary of health and human services
6 or by the governor;

7 (iii) has had a student loan incurred as a result of health-related education; and

8 (iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan repayment
9 program described in subsection (12)(b) as an incentive to practice in Montana.

10 (b) For the purposes of subsection (12)(a), a loan repayment program includes a federal, state, or
11 qualified private program. A qualified private loan repayment program includes a licensed health care facility, as
12 defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the facility
13 as a licensed health care professional.

14 (13) Notwithstanding the provisions of subsection (1), adjusted gross income does not include 40% of
15 capital gains on the sale or exchange of capital assets before December 31, 1986, as capital gains are
16 determined under subchapter P. of Chapter 1 of the Internal Revenue Code as it read on December 31, 1986.

17 (14) By November 1 of each year, the department shall multiply the amount of pension and annuity
18 income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii)
19 by the inflation factor for that tax year, but using the year 2009 consumer price index, and rounding the results
20 to the nearest \$10. The resulting amounts are effective for that tax year and must be used as the basis for the
21 exemption determined under subsection (2)(c). (Subsection (2)(f) terminates on occurrence of contingency--sec.
22 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency--sec. 9, Ch. 262, L. 2001.)"

23

24 **Section 3.** Section 15-30-2152, MCA, is amended to read:

25 **"15-30-2152. Computation of income of estates or trusts -- exemption.** (1) Except as otherwise
26 provided in this chapter, "gross income" of estates or trusts means all income from whatever source derived in
27 the tax year, including but not limited to the following items:

28 (a) dividends;

29 (b) interest received or accrued, including interest received on obligations of another state or territory
30 or a county, municipality, district, or other political subdivision of the state, but excluding interest income from

1 obligations of:

2 (i) the United States government or the state of Montana;

3 (ii) a school district; or

4 (iii) a county, municipality, district, or other political subdivision of the state;

5 (c) income from partnerships and other fiduciaries;

6 (d) gross rents and royalties;

7 (e) gain from sale or exchange of property, including those gains that are excluded from gross income

8 for federal fiduciary income tax purposes by section 641(c) of the Internal Revenue Code of 1954 (now deleted);

9 (f) gross profit from trade or business; ~~and~~

10 (g) refunds recovered on federal income tax, to the extent that the deduction of the tax resulted in a
11 reduction of Montana income tax liability; and

12 (h) the amount of any addback of the federal temporary bonus depreciation allowance as required under
13 [section 1(1)(a)].

14 (2) In computing net income, there are allowed as deductions:

15 (a) interest expenses deductible for federal tax purposes according to section 163 of the Internal
16 Revenue Code, 26 U.S.C. 163;

17 (b) taxes paid or accrued within the tax year, including but not limited to federal income tax, but excluding
18 Montana income tax;

19 (c) that fiduciary's portion of depreciation or depletion that is deductible for federal tax purposes
20 according to sections 167, 611, and 642 of the Internal Revenue Code, 26 U.S.C. 167, 611, and 642, including
21 annual deductions of the addback of the federal temporary bonus depreciation allowance under the provisions
22 of [section 1(2)];

23 (d) charitable contributions that are deductible for federal tax purposes according to section 642(c) of
24 the Internal Revenue Code, 26 U.S.C. 642(c);

25 (e) administrative expenses claimed for federal income tax purposes, according to sections 212 and
26 642(g) of the Internal Revenue Code, 26 U.S.C. 212 and 642(g);

27 (f) losses from fire, storm, shipwreck, or other casualty or from theft, to the extent not compensated for
28 by insurance or otherwise, that are deductible for federal tax purposes according to section 165 of the Internal
29 Revenue Code, 26 U.S.C. 165;

30 (g) net operating loss deductions allowed for federal income tax under section 642(d) of the Internal

1 Revenue Code, 26 U.S.C. 642(d), except estates may not claim losses that are deductible on the decedent's final
2 return;

3 (h) Montana income tax refunds or tax refund credits.

4 (3) The following additional deductions are allowed in deriving taxable income of estates and trusts:

5 (a) any amount of income for the tax year currently required to be distributed to beneficiaries for the year;

6 (b) any other amounts properly paid or credited or required to be distributed for the tax year.

7 (4) The exemption allowed for estates and trusts is that exemption provided in 15-30-2114(2)(a) and (6)."
8

9 **Section 4.** Section 15-31-113, MCA, is amended to read:

10 **"15-31-113. Gross income and net income.** (1) The term "gross income" means all income recognized
11 in determining the corporation's gross income for federal income tax purposes and:

12 (a) including:

13 (i) interest exempt from federal income tax and exempt-interest dividends as defined in section 852(b)(5)
14 of the Internal Revenue Code of 1986, as that section may be amended or renumbered;

15 (ii) the portion of gain from a liquidation of the reporting corporation not recognized for federal corporate
16 income tax purposes pursuant to sections 331 through 337 of the Internal Revenue Code, as those sections may
17 be amended or renumbered, attributable to stockholders, either individual or corporate, not subject to Montana
18 income or license tax under Title 15, chapter 30 or chapter 31, as appropriate, on the gain passing through to the
19 stockholders pursuant to federal law;

20 (iii) the amount of any addback of the federal temporary bonus depreciation allowance required under
21 [section 1(1)(a)]; and

22 (b) excluding gain recognized for federal tax purposes as a shareholder of a liquidating corporation
23 pursuant to sections 331 through 337 of the Internal Revenue Code, as those sections may be amended or
24 renumbered, when the gain is required to be recognized by the liquidating corporation pursuant to subsection
25 (1)(a)(ii) of this section.

26 (2) The term "net income" means the gross income of the corporation less the deductions set forth in
27 15-31-114.

28 (3) A corporation is not exempt from the corporation license tax unless specifically provided for under
29 15-31-101(3) or 15-31-102. Any corporation not subject to or liable for federal income tax but not exempt from
30 the corporation license tax under 15-31-101(3) or 15-31-102 shall compute gross income for corporation license

1 tax purposes in the same manner as a corporation that is subject to or liable for federal income tax according to
 2 the provisions for determining gross income in the federal Internal Revenue Code in effect for the taxable year."

3

4 **Section 5.** Section 15-31-114, MCA, is amended to read:

5 **"15-31-114. Deductions allowed in computing income.** (1) In computing the net income, the following
 6 deductions are allowed from the gross income received by the corporation within the year from all sources:

7 (a) all the ordinary and necessary expenses paid or incurred during the taxable year in the maintenance
 8 and operation of its business and properties, including reasonable allowance for salaries for personal services
 9 actually rendered, subject to the limitation contained in this section, and rentals or other payments required to
 10 be made as a condition to the continued use or possession of property to which the corporation has not taken
 11 or is not taking title or in which it has no equity. A deduction is not allowed for salaries paid upon which the
 12 recipient has not paid Montana state income tax. However, when domestic corporations are taxed on income
 13 derived from outside the state, salaries of officers paid in connection with securing the income are deductible.

14 (b) (i) all losses actually sustained and charged off within the year and not compensated by insurance
 15 or otherwise, including a reasonable allowance for the wear and tear and obsolescence of property used in the
 16 trade or business. The allowance is determined according to the provisions of section 167 of the Internal Revenue
 17 Code in effect with respect to the taxable year. ~~All~~ Except as provided in [section 1], all elections for depreciation
 18 must be the same as the elections made for federal income tax purposes. A deduction is not allowed for any
 19 amount paid out for any buildings, permanent improvements, or betterments made to increase the value of any
 20 property or estate, and a deduction may not be made for any amount of expense of restoring property or making
 21 good the exhaustion of property for which an allowance is or has been made. A depreciation deduction is allowed
 22 for the annual deductions related to the recovery of the addback of the federal temporary bonus depreciation
 23 allowance under the provisions of [section 1(2)]. A depreciation or amortization deduction is not allowed on a title
 24 plant as defined in 33-25-105(15).

25 (ii) There is allowed as a deduction for the taxable period a net operating loss deduction determined
 26 according to the provisions of 15-31-119.

27 (c) in the case of mines, other natural deposits, oil and gas wells, and timber, a reasonable allowance
 28 for depletion and for depreciation of improvements. The reasonable allowance must be determined according
 29 to the provisions of the Internal Revenue Code in effect for the taxable year. ~~All~~ Except as provided in [section
 30 1(1)(a)], all elections made under the Internal Revenue Code with respect to capitalizing or expensing exploration

1 and development costs and intangible drilling expenses for corporation license tax purposes must be the same
2 as the elections made for federal income tax purposes.

3 (d) the amount of interest paid within the year on its indebtedness incurred in the operation of the
4 business from which its income is derived. Interest may not be allowed as a deduction if paid on an indebtedness
5 created for the purchase, maintenance, or improvement of property or for the conduct of business unless the
6 income from the property or business would be taxable under this part.

7 (e) (i) taxes paid within the year, except the following:

8 (A) taxes imposed by this part;

9 (B) taxes assessed against local benefits of a kind tending to increase the value of the property
10 assessed;

11 (C) taxes on or according to or measured by net income or profits imposed by authority of the
12 government of the United States;

13 (D) taxes imposed by any other state or country upon or measured by net income or profits.

14 (ii) Taxes deductible under this part must be construed to include taxes imposed by any county, school
15 district, or municipality of this state.

16 (f) that portion of an energy-related investment allowed as a deduction under 15-32-103;

17 (g) (i) except as provided in subsection (1)(g)(ii) or (1)(g)(iii), charitable contributions and gifts that qualify
18 for deduction under section 170 of the Internal Revenue Code, 26 U.S.C. 170, as amended.

19 (ii) The public service commission may not allow in the rate base of a regulated corporation the inclusion
20 of contributions made under this subsection.

21 (iii) A deduction is not allowed for a charitable contribution using a charitable gift annuity unless the
22 annuity is a qualified charitable gift annuity as defined in 33-20-701.

23 (h) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-209,
24 81-7-118, or 81-7-201.

25 (2) In lieu of the deduction allowed under subsection (1)(g), the taxpayer may deduct the fair market
26 value, not to exceed 30% of the taxpayer's net income, of a computer or other sophisticated technological
27 equipment or apparatus intended for use with the computer donated to an elementary, secondary, or accredited
28 postsecondary school located in Montana if:

29 (a) the contribution is made no later than 5 years after the manufacture of the donated property is
30 substantially completed;

1 (b) the property is not transferred by the donee in exchange for money, other property, or services; and
2 (c) the taxpayer receives a written statement from the donee in which the donee agrees to accept the
3 property and representing that the use and disposition of the property will be in accordance with the provisions
4 of subsection (2)(b).

5 (3) In the case of a regulated investment company or a fund of a regulated investment company, as
6 defined in section 851(a) or 851(g) of the Internal Revenue Code of 1986, 26 U.S.C. 851(a) or 851(g), as that
7 section may be amended or renumbered, there is allowed a deduction for dividends paid, as defined in section
8 561 of the Internal Revenue Code of 1986, 26 U.S.C. 561, as that section may be amended or renumbered,
9 except that the deduction for dividends is not allowed with respect to dividends attributable to any income that
10 is not subject to tax under this chapter when earned by the regulated investment company. For the purposes of
11 computing the deduction for dividends paid, the provisions of sections 852(b)(7) and 855 of the Internal Revenue
12 Code of 1986, 26 U.S.C. 852(b)(7) and 855, as those sections may be amended or renumbered, apply. A
13 regulated investment company is not allowed a deduction for dividends received as defined in sections 243
14 through 245 of the Internal Revenue Code of 1986, 26 U.S.C. 243 through 245, as those sections may be
15 amended or renumbered."

16
17 **NEW SECTION. Section 6. Codification instruction.** [Section 1] is intended to be codified as an
18 integral part of Title 15, chapter 31, and the provisions of Title 15, chapter 31, apply to [section 1].

19
20 **NEW SECTION. Section 7. Effective date.** [This act] is effective on passage and approval.

21
22 **NEW SECTION. Section 8. Retroactive applicability.** [This act] applies retroactively, within the
23 meaning of 1-2-109, to tax years beginning after September 8, 2010.

24 - END -