

SENATE BILL NO. 92

INTRODUCED BY F. THOMAS

BY REQUEST OF THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN PROVISIONS RELATED TO THE
6 ADMINISTRATION OF TAXES; AMENDING PROVISIONS FOR THE WAIVER OF INTEREST; REVISING THE
7 LATE FILING PENALTY; PROVIDING AN AUTOMATIC EXTENSION FOR THE FILING OF INDIVIDUAL
8 INCOME TAXES; REVISING THE UNIFORM PENALTY ASSESSMENTS ON DELINQUENT TAXES;
9 PROVIDING THAT INTEREST ASSESSMENTS ON DELINQUENT INCOME TAXES ARE BASED ONLY ON
10 THE FEDERAL UNDERPAYMENT RATE ASSESSED AGAINST INDIVIDUAL INCOME TAXPAYERS;
11 PROVIDING THAT THE PENALTIES FOR SUBSTANTIAL UNDERSTATEMENT OF A TAX OR FOR FILING
12 A FRAUDULENT OR FRIVOLOUS RETURN OR REPORT ARE SIMILAR TO FEDERAL PENALTIES;
13 CLARIFYING THE ALLOCATION OF A FEDERAL INCOME TAX REFUND; AMENDING SECTIONS 15-1-206,
14 15-1-216, 15-30-2110, 15-30-2341, 15-30-2512, AND 15-30-2604, MCA; AND PROVIDING EFFECTIVE DATES
15 AND APPLICABILITY DATES."

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

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19 **Section 1.** Section 15-1-206, MCA, is amended to read:

20 **"15-1-206. Waiver of penalties -- interest.** (1) The department may, in its discretion, waive, for
21 reasonable cause, any penalty assessed by the department.

22 (2) Whenever the department waives a penalty provided for in this title, it also may, in its discretion,
23 waive interest not to exceed \$100 due upon the tax \$500 due for each tax period. When the department enters
24 into a payment plan with a taxpayer that allows the taxpayer to make installment payments of delinquent taxes,
25 interest, and penalties, the department may, at the conclusion of the payment plan term, agree to waive an
26 additional \$100 of interest for each tax period if the taxpayer has complied with all of the provisions of the
27 payment plan."

28
29 **Section 2.** Section 15-1-216, MCA, is amended to read:

30 **"15-1-216. Uniform penalty and interest assessments for violation of tax provisions -- applicability**

1 **-- exceptions -- uniform provision for interest on overpayments.** (1) A person who fails to file a required tax
 2 return or other report with the department by the due date of the return or report, including any extension of time
 3 allowed for in Title 15, chapter 30 or 31, of the return or report must be assessed a late filing penalty of \$50 or
 4 the amount of the tax due, whichever is less. The penalty is the greater of \$50 or 5% of the tax due for each
 5 month during which there is a failure to file the return or report, not to exceed an amount up to 25% of the tax due.
 6 The late filing penalty is calculated from the due date or extended due date until the department actually receives
 7 the late return or report. The penalty is computed only on the net amount of tax due, if any, as of the original due
 8 date or extended due date provided for in Title 15, chapter 30 or 31, after credit has been given for amounts paid
 9 through withholding, estimated tax payments, or other credits claimed on the return.

10 (2) (a) (i) Except as provided in ~~15-30-2604(3)(c)~~ and subsections (2)(a)(ii), (2)(b), and (2)(d)
 11 of this section, a person who fails to pay a tax when due must be assessed a late payment penalty of ~~1.2%~~ 0.5%
 12 a month or fraction of a month on the unpaid tax. The penalty may not exceed 12% of the tax due.

13 (ii) A penalty imposed under subsection (2)(a)(i) may be waived if:

14 (A) the taxpayer pays the tax and interest due with the tax return or report within 30 days following the
 15 first notice from the department to the taxpayer of the amount due; or

16 (B) subject to the conditions of 15-30-2512(1)(a)(i), the taxpayer pays at least 90% of the tax, when due,
 17 for the current year.

18 (b) A (i) Except as provided in subsections (2)(b)(ii) and (2)(d), a person who fails to pay a tax when due
 19 under Title 15, chapter 30, part 25, chapter 53, chapter 65, or chapter 68, or Title 53, chapter 19, part 3, must be
 20 assessed a late payment penalty of 1.5% a month or fraction of a month on the unpaid tax. The penalty may not
 21 exceed 15% of the tax due.

22 (ii) A penalty imposed under subsection (2)(b)(i) may be waived if the taxpayer pays the tax and interest
 23 due with the tax return or report within 30 days following the first notice from the department to the taxpayer of
 24 the amount due.

25 (c) ~~Except as provided in 15-30-2604(3)(c), the~~ The penalty imposed under subsection (2)(a) or (2)(b)
 26 of this section accrues daily on the unpaid tax from the original due date of the return regardless of whether the
 27 taxpayer has received an extension of time for filing a return.

28 (d) A penalty may not be imposed under subsection (2)(a) or (2)(b) on the amount of unpaid tax if the
 29 taxpayer demonstrates there is reasonable cause for the failure to pay the tax.

30 (3) (a) Subject to subsection (3)(b), a person who makes a substantial understatement of tax imposed

1 under Title 15, Title 16, chapter 11, or Title 53, chapter 19, part 3, must be assessed a substantial understatement
 2 penalty in an amount equal to 20% of the understatement. As used in this subsection (3), "understatement"
 3 means the amount of the tax required to be shown on the return for the tax year less the amount of tax that the
 4 taxpayer reported on the return. For purposes of this subsection (3):

5 (i) there is a substantial understatement of tax penalty imposed under Title 15, chapter 30, except for Title
 6 15, chapter 30, part 33, if the understatement exceeds the greater of 10% of the amount of tax required to be
 7 shown on the return or \$3,000; and

8 (ii) there is a substantial understatement of tax penalty imposed for all other chapters under Title 15,
 9 including Title 15, chapter 30, part 33, and for Title 16, chapter 11, and Title 53, chapter 19, part 3, if the
 10 understatement exceeds the lesser of:

11 (A) 10% of the amount of tax required to be shown on the return if the understatement is greater than
 12 \$10,000; or

13 (B) \$500,000.

14 (b) The amount of substantial understatement of tax penalty must be reduced by the amount of the
 15 understatement that is attributable to:

16 (i) the tax treatment of any item by the taxpayer if there is or was substantial authority for the treatment;
 17 or

18 (ii) any item if the relevant facts affecting the tax treatment of the item are adequately disclosed in the
 19 return or in a statement attached to the return and there is a reasonable basis for the tax treatment of the item
 20 by the taxpayer.

21 ~~(3)(4)~~ (a) Except as provided in subsection (4)(b), a person who purposely or knowingly, as those
 22 terms are defined in 45-2-101, fails to file a return or report as required under Title 15 when due or fails to file a
 23 return or report within 60 days after receiving written notice from the department that a return or report must be
 24 filed is liable for an additional penalty of not less than \$1,000 or more than \$10,000 15% of the tax due for each
 25 month or fraction of a month during which the person purposely or knowingly fails to file a return or report, but
 26 not to exceed 75% of the tax due as determined by the department. The department may bring an action in the
 27 name of the state to recover the penalty and any delinquent taxes.

28 (b) A person who purposely or knowingly, as those terms are defined in 45-2-101, fails to file a return
 29 or report as required under Title 15, chapter 30, part 33, when due or fails to file a return or report within 60 days
 30 after receiving written notice from the department that a return or report must be filed is liable for an additional

1 penalty of \$1,000. The department may bring an action in the name of the state to recover the penalty and any
 2 delinquent taxes.

3 (5) (a) A person who files a fraudulent return or report under Title 15 is liable for an additional penalty
 4 of 75% of the tax due on the underpayment of tax attributable to the fraudulent amount reported on the return or
 5 report. The department may bring an action in the name of the state to recover the penalty, interest, and any
 6 delinquent taxes.

7 (b) A person who has no tax liability for the tax year and who files a fraudulent claim for a credit under
 8 Title 15 is liable for an additional penalty of 75% of the amount attributable to the fraudulent amount of the credit
 9 claimed. The department may bring an action in the name of the state to recover the penalty, interest, and amount
 10 paid.

11 (6) A person who files a frivolous return or report under Title 15 is liable, in addition to any other penalty
 12 imposed, for a penalty of \$2,500. A frivolous return or report is one that is filed by a person and that omits
 13 information necessary to determine the taxpayer's tax liability, shows a substantially incorrect tax, is based on
 14 a frivolous position, or is based on the taxpayer's action to impede collection of taxes. Frivolous positions are
 15 those identified in 26 U.S.C. 6702 as those provisions may apply to provisions of Title 15. The department may
 16 bring an action in the name of the state to recover the penalty, interest, and any delinquent taxes.

17 ~~(4)(7)~~ (a) ~~Except as provided in 15-30-2604(3)(c), interest~~ Interest on taxes not paid when due must be
 18 assessed by the department. The department shall determine the interest ~~rates~~ rate established under subsection
 19 ~~(4)(a)(i)~~ (7)(a)(i) for each calendar year by rule subject to the conditions of this subsection ~~(4)(a)~~ (7)(a). Interest
 20 rates on taxes not paid when due for a calendar year are as follows:

21 (i) For individual income taxes not paid when due, including delinquent taxes and deficiency
 22 assessments, the interest rate is equal to the underpayment rate for individual taxpayers established by the
 23 secretary of the United States department of the treasury pursuant to section 6621 of the Internal Revenue Code,
 24 26 U.S.C. 6621, for the ~~fourth~~ third quarter of the preceding year ~~or 8%, whichever is greater.~~

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

27 (b) Interest on delinquent taxes and on deficiency assessments is computed from the original due date
 28 of the return until the tax is paid. ~~Except as provided in 15-30-2604(3)(c), interest~~ Interest accrues daily on the
 29 unpaid tax from the original due date of the return regardless of whether the taxpayer has received an extension
 30 of time for filing the return.

1 ~~(5)(8)~~ (a) Except as provided in subsection ~~(5)(b)~~ (8)(b), this section applies to taxes, fees, remittance,
 2 and other assessments imposed under ~~Titles Title 15, and Title 16, [and the former 85-2-276]~~ and Title 53,
 3 chapter 19, part 3.

4 (b) This section does not apply to:

5 (i) property taxes; or

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

8 ~~(6)(9)~~ Any changes to interest rates apply to any current outstanding tax balance, regardless of the rate
 9 in effect at the time the tax accrued.

10 ~~(7)(10)~~ ~~Except as provided in 15-30-2604, penalty~~ Penalty and interest must be calculated and assessed
 11 commencing with the due date of the return.

12 ~~(8)(11)~~ Deficiency assessments are due and payable 30 days from the date of the deficiency
 13 assessment.

14 ~~(9)(12)~~ Interest allowed for the overpayment of taxes or fees is the same rate as is charged for unpaid
 15 or delinquent taxes. For the purposes of this subsection, interest charged for unpaid or delinquent taxes is the
 16 interest rate determined in subsection ~~(4)(a)(i)~~ (7)(a)(i). ~~(Bracketed language in subsection (5)(a) terminates June~~
 17 ~~30, 2020--sec. 18, Ch. 288, L. 2005.)"~~

18

19 **Section 3.** Section 15-30-2110, MCA, is amended to read:

20 "**15-30-2110. Adjusted gross income.** (1) Subject to subsection (13), adjusted gross income is the
 21 taxpayer's federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62,
 22 and in addition includes the following:

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

26 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C.
 27 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

28 (b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a
 29 reduction of Montana income tax liability as determined under subsection (15);

30 (c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue

1 Code that has been reduced by any federal taxes paid by the subchapter S. corporation on the income;
2 (d) depreciation or amortization taken on a title plant as defined in 33-25-105;
3 (e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that the
4 amount recovered reduced the taxpayer's Montana income tax in the year deducted;
5 (f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of
6 the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution
7 of the same estate or trust for the same tax period; and
8 (g) except for exempt-interest dividends described in subsection (2)(a)(ii), ~~for tax years commencing after~~
9 ~~December 31, 2002~~; the amount of any dividend to the extent that the dividend is not included in federal adjusted
10 gross income.

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

13 (a) (i) all interest income from obligations of the United States government, the state of Montana, or a
14 county, municipality, district, or other political subdivision of the state and any other interest income that is exempt
15 from taxation by Montana 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 (2)(a)(i);

18 (b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including
19 \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

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

22 (ii) subject to subsection (14), for pension and annuity income described under subsection (2)(c)(i), as
23 follows:

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

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

- 1 (d) all Montana income tax refunds or tax refund credits;
- 2 (e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);
- 3 (f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section
4 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January
5 1, 1983, received by a person for services rendered to patrons of premises licensed to provide food, beverage,
6 or lodging;
- 7 (g) all benefits received under the workers' compensation laws;
- 8 (h) all health insurance premiums paid by an employer for an employee if attributed as income to the
9 employee under federal law, including premiums paid by the employer for an employee pursuant to 33-22-166;
- 10 (i) all money received because of a settlement agreement or judgment in a lawsuit brought against a
11 manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";
- 12 (j) principal and income in a medical care savings account established in accordance with 15-61-201
13 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the taxpayer or a
14 dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;
- 15 (k) principal and income in a first-time home buyer savings account established in accordance with
16 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase
17 of a single-family residence;
- 18 (l) contributions or earnings withdrawn from a family education savings account or from a qualified tuition
19 program established and maintained by another state as provided by section 529(b)(1)(A)(ii) of the Internal
20 Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified higher education expenses, as defined in 15-62-103, of
21 a designated beneficiary;
- 22 (m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the
23 recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;
- 24 (n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of
25 the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution
26 of the same estate or trust for the same tax period;
- 27 (o) deposits, not exceeding the amount set forth in 15-30-3003, deposited in a Montana farm and ranch
28 risk management account, as provided in 15-30-3001 through 15-30-3005, in any tax year for which a deduction
29 is not provided for federal income tax purposes;
- 30 (p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant

1 to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the child and
2 taxpayer meet the filing requirements in 15-30-2602.

3 (q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or
4 withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303;

5 (r) that part of the refundable credit provided in 33-22-2006 that reduces Montana tax below zero; and

6 (s) the amount of the gain recognized from the sale or exchange of a mobile home park as provided in
7 15-31-163.

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

12 (4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business
13 deductions by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and
14 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
15 salaries paid regardless of the credit taken. The deduction must be made in the year that the wages and salaries
16 were used to compute the credit. In the case of a partnership or small business corporation, the deduction must
17 be made to determine the amount of income or loss of the partnership or small business corporation.

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

23 (6) Married taxpayers filing a joint federal return who are allowed a capital loss deduction under section
24 1211 of the Internal Revenue Code, 26 U.S.C. 1211, and who file separate Montana income tax returns may
25 claim the same amount of the capital loss deduction that is allowed on the federal return. If the allowable capital
26 loss is clearly attributable to one spouse, the loss must be shown on that spouse's return; otherwise, the loss
27 must be split equally on each return.

28 (7) In the case of passive and rental income losses, married taxpayers filing a joint federal return and
29 who file separate Montana income tax returns are not required to recompute allowable passive losses according
30 to the federal passive activity rules for married taxpayers filing separately under section 469 of the Internal

1 Revenue Code, 26 U.S.C. 469. If the allowable passive loss is clearly attributable to one spouse, the loss must
2 be shown on that spouse's return; otherwise, the loss must be split equally on each return.

3 (8) Married taxpayers filing a joint federal return in which one or both of the taxpayers are allowed a
4 deduction for an individual retirement contribution under section 219 of the Internal Revenue Code, 26 U.S.C.
5 219, and who file separate Montana income tax returns may claim the same amount of the deduction that is
6 allowed on the federal return. The deduction must be attributed to the spouse who made the contribution.

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

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

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

27 (11) (a) An individual who contributes to one or more accounts established under the Montana family
28 education savings program or to a qualified tuition program established and maintained by another state as
29 provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), may reduce adjusted
30 gross income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each

1 spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts. Spouses
2 may jointly elect to treat half of the total contributions made by the spouses as being made by each spouse. The
3 reduction in adjusted gross income under this subsection applies only with respect to contributions to an account
4 of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the
5 taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect
6 to withdrawals of contributions that reduced adjusted gross income.

7 (b) Contributions made pursuant to this subsection (11) are subject to the recapture tax provided in
8 15-62-208.

9 (12) (a) A taxpayer may exclude the amount of the loan payment received pursuant to subsection
10 (12)(a)(iv), not to exceed \$5,000, from the taxpayer's adjusted gross income if the taxpayer:

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

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

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

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

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

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

26 (14) By November 1 of each year, the department shall multiply the amount of pension and annuity
27 income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii)
28 by the inflation factor for that tax year, but using the year 2009 consumer price index, and rounding the results
29 to the nearest \$10. The resulting amounts are effective for that tax year and must be used as the basis for the
30 exemption determined under subsection (2)(c).

1 (15) A refund received of federal income tax referred to in subsection (1)(b) must be allocated in the
 2 following order as applicable:

3 (a) to federal income tax in a prior tax year that was not deducted on the state tax return in that prior tax
 4 year;

5 (b) to federal income tax in a prior tax year that was deducted on the state tax return in that prior tax year
 6 but did not result in a reduction in state income tax liability in that prior tax year; and

7 (c) to federal income tax in a prior tax year that was deducted on the state tax return in that prior tax year
 8 and that reduced the taxpayer's state income tax liability in that prior tax year. (Subsection (2)(f) terminates on
 9 occurrence of contingency--sec. 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of
 10 contingency--sec. 9, Ch. 262, L. 2001.)"

11
 12 **Section 4.** Section 15-30-2341, MCA, is amended to read:

13 **"15-30-2341. Residential property tax credit for elderly -- limitations -- denial of claim.** (1) Only one
 14 claimant per household in a claim period under the provisions of 15-30-2337 through 15-30-2341 is entitled to
 15 relief.

16 (2) Except as provided in subsection (3), a claim for relief may not be allowed for any portion of property
 17 taxes billed or rent-equivalent taxes paid that is derived from a public rent or tax subsidy program.

18 (3) Except for dwellings rented from a county or municipal housing authority, a claim for relief may not
 19 be allowed on rented lands or rented dwellings that are not subject to Montana property taxes during the claim
 20 period.

21 (4) A person filing a false or fraudulent claim under the provisions of 15-30-2337 through 15-30-2341
 22 must be charged with the offense of unsworn falsification to authorities pursuant to 45-7-203. If a false or
 23 fraudulent claim has been paid, the amount paid, penalty, and interest may be recovered as ~~any other debt owed~~
 24 ~~to the state. An additional 10% may be added to the amount due as a penalty. The unpaid debt must bear interest~~
 25 ~~from the date of the original payment of claim until paid, at the rate of 1% per month provided in 15-1-216."~~

26
 27 **Section 5.** Section 15-30-2512, MCA, is amended to read:

28 **"15-30-2512. Estimated tax -- payment -- exceptions -- interest.** (1) (a) Each individual subject to tax
 29 under this chapter, except farmers or ranchers as defined in subsection (6), shall pay for the tax year, through
 30 employer withholding, as provided in 15-30-2502, through payment of estimated tax in four installments, as

1 provided in subsection (2) of this section, or through a combination of employer withholding and estimated tax
2 payments, at least:

- 3 (i) 90% of the tax for the current tax year, less tax credits and withholding allowed the taxpayer; or
- 4 (ii) an amount equal to 100% of the individual's tax liability for the preceding tax year, if the preceding tax
5 year was a period of 12 months and if the individual filed a return for the tax year.

6 (b) Payment of estimated taxes under this section is not required if:

7 (i) the combined tax liability of employer withholding and estimated tax for the current year is less than
8 \$500 after reductions for credits and withholding;

9 (ii) the individual did not have any tax liability for the preceding tax year, which was a tax year of 12
10 months, and if the individual was a citizen or resident of the United States throughout that tax year;

11 (iii) the underpayment was caused by reason of casualty, disaster, or other unusual circumstances that
12 the department determines to constitute good cause; or

13 (iv) the individual retired in the tax year after having attained the age of 62 or if the individual became
14 disabled in the tax year. In addition, payment of estimated taxes under this section is not required in the tax year
15 following the tax year in which the individual retired or became disabled.

16 (2) Estimated taxes must be paid in four installments according to one of the following schedules:

17 (a) Subject to the due date provision in 15-30-2604(1)(b), for each taxpayer whose tax year begins on
18 January 1, estimated tax payments are due on the following dates:

19 Installment	Date
20 First	April 15
21 Second	June 15
22 Third	September 15
23 Fourth	January 15 of the following tax year

24 (b) Subject to the due date provision in 15-30-2604(1)(b), for each taxpayer whose tax year begins on
25 a date other than January 1, estimated tax payments are due on the following dates:

26 Installment	Date
27 First	15th day of the 4th month following the beginning of the tax year
28 Second	15th day of the 6th month following the beginning of the tax year
29 Third	15th day of the 9th month following the beginning of the tax year
30 Fourth	15th day of the month following the close of the tax year



1 (3) (a) Except as provided in subsection (4), each installment must be 25% of the required annual
 2 payment determined pursuant to subsection (1). If the taxpayer's tax situation changes, each succeeding
 3 installment must be proportionally changed so that the balance of the required annual payment is paid in equal
 4 installments over the remaining period of time.

5 (b) If the taxpayer's tax situation changes after the date for the first installment or any subsequent
 6 installment, as specified in subsection (2)(a) or (2)(b), so that the taxpayer is required to pay estimated taxes, the
 7 taxpayer shall pay 25% for each succeeding installment except for the first one in which a payment is required.
 8 For estimated taxes required to be paid beginning with the second installment provided for in subsection (2)(a)
 9 or (2)(b), the taxpayer shall pay 50% for that installment and 25% for the third and fourth installments,
 10 respectively. For estimated taxes required to be paid beginning with the third installment provided for in
 11 subsection (2)(a) or (2)(b), the taxpayer shall pay 75% for that installment and 25% for the fourth installment.

12 (4) (a) If for any required installment the taxpayer determines that the installment payment is less than
 13 the amount determined under subsection (3)(a), the lower amount may be paid as an annualized income
 14 installment.

15 (b) For any required installment, the annualized income installment is the applicable percentage
 16 described in subsection (4)(c) applied to the tax computed on the basis of annualized taxable income in the tax
 17 year for the months ending before the due date for the installment less the total amount of any prior required
 18 installments for the tax year.

19 (c) For the purposes of this subsection (4), the applicable percentage is determined according to the
 20 following schedule:

21 Required Installment	Applicable Percentage
22 First	22.5%
23 Second	45%
24 Third	67.5%
25 Fourth	90%

26 (d) A reduction in a required installment resulting from the application of an annualized income
 27 installment must be recaptured by increasing the amount of the next required installment, determined under
 28 subsection (3)(a), by the amount of the reduction. Any subsequent installment must be increased by the amount
 29 of the reduction until the amount has been recaptured.

30 (5) (a) If Subject to subsection (5)(f), if an estimated tax, an employer withholding tax, or a combination

1 of estimated tax and employer withholding tax is underpaid, there must be added to the amount due under this
2 chapter interest on the amount of the underpayment as provided in 15-1-216. The interest is computed on the
3 amount of the underpayment, as determined in subsection (5)(b), for the period from the time the payment was
4 due to the date payment was made or to the 15th day of the 4th month of the year following the tax year in which
5 the payment was to be made, whichever is earlier.

6 (b) For the purpose of determining the amount of interest due in subsection (5)(a), the amount of the
7 underpayment is the required installment amount less the installment amount paid, if any, on or before the due
8 date for the installment.

9 (c) For the purpose of determining the amount of interest due in subsection (5)(a), an estimated payment
10 must be credited against unpaid required installments in the order in which those installments are required to be
11 paid.

12 (d) For a married taxpayer filing separately on the same form, the interest provided for in subsection
13 (5)(a) must be computed on the combined tax liability after reductions for credits and withholding, as shown on
14 the taxpayer's return.

15 (e) Interest may not be charged with respect to any underpayment of the fourth installment of estimated
16 taxes if:

17 (i) the taxpayer pays in full the amount computed on the return as payable; and

18 (ii) the taxpayer files a return on or before the last day of the month following the close of the tax year
19 referred to in subsection (2)(a) or (2)(b).

20 (f) Interest on the underpayment of estimated tax may not be assessed against a taxpayer if the tax paid
21 by the taxpayer from employer withholding and estimated tax payments satisfies the requirements of subsection
22 (1)(a)(i) or (1)(a)(ii) and the taxpayer has paid approximately equal quarterly installments of estimated taxes.

23 (6) For the purposes of this section, "farmer or rancher" means a taxpayer who derives at least 66 2/3%
24 of the taxpayer's gross income, as defined in 15-30-2101, from farming or ranching operations, or both.

25 (7) The department shall promulgate rules governing reasonable extensions of time for paying the
26 estimated tax. An extension may not be for more than 6 months."

27

28 **Section 6.** Section 15-30-2604, MCA, is amended to read:

29 **"15-30-2604. Time for filing -- extensions of time.** (1) (a) Except as provided in subsection (1)(b), a
30 return must be made to the department on or before the 15th day of the 4th month following the close of the

1 taxpayer's fiscal year, or if the return is made on the basis of the calendar year, then the return must be made
2 on or before April 15 following the close of the calendar year.

3 (b) (i) If the due date of the return falls on a holiday that defers a filing date as recognized by the internal
4 revenue service and that is not observed in Montana, the return may be made on the first business day after the
5 holiday.

6 (ii) The department may extend filing dates and defer or waive interest, penalties, and other effects of
7 late filing for a period not exceeding 1 year for taxpayers affected by a federally declared disaster or a terroristic
8 or military action recognized for federal tax purposes under 26 U.S.C. 7508A.

9 (2) The return must set forth those facts that the department considers necessary for the proper
10 enforcement of this chapter. An affidavit or affirmation must be attached to the return from the persons making
11 the return verifying that the statements contained in the return are true. Blank forms of return must be furnished
12 by the department upon application, but failure to secure the form does not relieve the taxpayer of the obligation
13 to make a return required under this chapter. A taxpayer liable for a tax under this chapter shall pay a minimum
14 tax of \$1.

15 (3) (a) ~~Subject to subsections (3)(b) and (3)(c), a~~ A taxpayer is allowed an automatic extension of time
16 for filing the taxpayer's return of up to 6 months following the date prescribed for filing of the tax return.

17 (b) (i) ~~Except as provided in subsection (3)(c), on or before the due date of the return, the taxpayer shall~~
18 ~~pay by estimated tax payments, withholding tax, or a combination of estimated tax payments and withholding tax~~
19 ~~90% of the current year's tax liability or 100% of the previous year's tax liability.~~

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

23 (c) ~~A taxpayer that has a tax liability of \$200 or less for the current year may pay the entire amount of~~
24 ~~the tax, without penalty or interest under 15-1-216, on or before the due date of the return under subsection~~
25 ~~(3)(a). If the tax is not paid on or before the due date of the return under subsection (3)(a), penalty and interest~~
26 ~~must be added to the tax due as provided in 15-1-216 from the original due date of the return.~~

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

29 (5) ~~Except as provided in subsection (3)(c), the~~ The extension of time for filing a return is not an
30 extension of time for the payment of taxes."

1

2 **NEW SECTION. Section 7. Effective dates.** (1) Except as provided in subsection (2), [this act] is
3 effective January 1, 2017.

4 (2) [Sections 3 and 8] and this section are effective on passage and approval.

5

6 **NEW SECTION. Section 8. Applicability.** (1) Except as provided in subsection (2), [this act] applies
7 to:

8 (a) penalties assessed against taxes due or fees due for tax periods beginning after December 31, 2016;

9 and

10 (b) interest computed under 15-1-216 assessed on income taxes owed after December 31, 2016,
11 regardless of the tax reporting period for which the taxes are owed.

12 (2) [Section 3] applies retroactively, within the meaning of 1-2-109, to tax periods beginning after
13 December 31, 2014.

14

- END -