

HOUSE BILL NO. 552
INTRODUCED BY B. RYAN

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING AN AFFILIATED GROUP THAT FILES A CONSOLIDATED RETURN AN AUTOMATIC 6-MONTH EXTENSION OF TIME FOR FILING A RETURN; AMENDING SECTION 15-31-141, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-31-141, MCA, is amended to read:

"15-31-141. Consolidated returns -- computation and procedure. (1) Corporations that are affiliated may not file a consolidated return unless at least 80% of all classes of stock of each corporation involved is owned directly or indirectly by one or more members of the affiliated group.

(2) Corporations may not file a consolidated return unless the operation of the affiliated group constitutes a unitary business and, except for a unitary business operation described in subsection (2)(b), permission to file a consolidated return is given by the department. For purposes of this section, a "unitary business operation" means one in which:

(a) the business operations conducted by the corporations in the affiliated group are interrelated or interdependent to the extent that the net income of one corporation cannot reasonably be determined without reference to the operations conducted by the other corporations; or

(b) all of the corporations in the affiliated group operate exclusively in Montana, are not multistate corporations, and have filed a consolidated federal return for the tax year.

(3) The election to file a consolidated return is binding as long as the affiliated group continues to file a federal consolidated return.

(4) If the conditions of subsections (1) and (2) are met, the department may require corporations to file a consolidated return when the department considers a consolidated return necessary.

(5) ~~Any~~ A corporation liable to report under this chapter and owning or controlling, either directly or indirectly, at least 80% of all classes of stock of each corporation involved may be required to make a consolidated report showing the combined net income, the assets of the corporation that are required for the purposes of this chapter, and any other information that the department may require, but excluding intercorporate

stockholdings and intercorporate accounts. ~~Any~~ A corporation liable to report under this chapter and owned or controlled, either directly or indirectly, by another corporation may be required to make a report consolidated with the owning company, showing the combined net income, the assets of the corporation that are required for the purposes of this chapter, and any other information that the department may require, but excluding intercorporate stockholdings and intercorporate accounts. If it appears to the department that any arrangement exists in a manner that improperly reflects the business done, the segregable assets, or the entire net income earned from business done in this state, the department may equitably adjust the tax in a manner that it may determine.

(6) (a) ~~When~~ If an affiliated group elects to file a consolidated return under the provisions of this section, a corporation of the affiliated group shall file a separate return for any portion of its ~~taxable year~~ tax period in which its income is not included in the consolidated return of the group. The separate return must be filed no later than the 15th day of the 5th month following the close of the ~~taxable year~~ tax period for which a consolidated return of the affiliated group is filed.

(b) (i) ~~A 1-month to 6-month extension of time is automatically allowed for filing a return if on or before the due date of the return, an application for an extension is made by the corporation. The application must be made on forms prescribed by the department~~ A corporation is allowed an automatic extension of time for filing its tax return of up to 6 months following the date prescribed for filing its return. The tax and interest must be paid when the return is filed. Interest must be added to the tax due as provided in 15-31-510(2).

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

NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 3. Applicability. [This act] applies to tax returns due after [the effective date of this act].

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