

HOUSE BILL NO. 714
INTRODUCED BY J. BALYEAT

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING INDIVIDUAL INCOME TAX TAXPAYERS TO ELECT TO PAY STATE INCOME TAXES BASED UPON THEIR FEDERAL TAXABLE INCOME AS SHOWN ON THEIR FEDERAL INCOME TAX RETURN, LESS ADJUSTMENTS; ESTABLISHING ALTERNATIVE TAX RATES; REDUCING TAX RATES, UNDER CERTAIN CONDITIONS, BASED ON THE CHANGES IN TOTAL INDIVIDUAL INCOME TAX LIABILITIES; ALLOWING FILING OF STATE TAXES BY MAILING A COPY OF THE TAXPAYER'S FEDERAL INCOME TAX RETURN TO THE DEPARTMENT OF REVENUE; PROVIDING THAT THE TAXPAYER OR THE DEPARTMENT MAY DETERMINE THE AMOUNT OF TAXES; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Election to determine tax liability under alternative method -- effect of election -- rules. (1) On or before the due date, including extensions, of a return for a tax year ending after December 31, 2003, an individual, estate, or trust may, on forms that the department prescribes, file an election to be taxed under the provisions of [sections 1 through 3].

(2) In order to make an election under this section, married taxpayers shall make the election jointly.

(3) An election made under this section is an irrevocable election, and the taxpayer is subject to tax under [sections 1 through 3] for the tax year in which the election is made and in subsequent tax years.

(4) The department is authorized to adopt rules that it considers necessary to administer the alternative method of taxation provided for in [sections 1 through 3].

NEW SECTION. Section 2. Alternative method for determining tax -- minimum tax. (1) In lieu of the tax imposed under 15-30-103, an individual taxpayer may elect under the provisions of [section 1 through 3] to be taxed based upon the taxpayer's adjusted federal taxable income for the current tax year. The tax determined under this section is based upon the taxpayer's federal taxable income as shown on the taxpayer's federal income tax form as adjusted under subsection (3). Adjustments, deductions, exclusions, or credits that may otherwise be provided in state law are not available to a taxpayer using the tax method provided for in [sections 1 through 3].

(2) For each tax year beginning after December 31, 2003, the tax determined under this section, plus the additional tax imposed under subsection (5), is upon the taxpayer's adjusted federal taxable income at the following rates, as adjusted under subsection (4):

(a) for each married individual who makes a joint return and for each surviving spouse:

(i) on the first \$6,000 of adjusted federal taxable income or any part of that income, 5.33%;

(ii) on the next \$35,000 of adjusted federal taxable income or any part of that income, 6.67%;

(iii) on the next \$84,000 of adjusted federal taxable income or any part of that income, 8%;

(iv) on any adjusted federal taxable income in excess of \$125,000 or any part of that income, 8.9%;

(b) for each head of household:

(i) on the first \$4,800 of adjusted federal taxable income or any part of that income, 5.33%;

(ii) on the next \$28,000 of adjusted federal taxable income or any part of that income, 6.67%;

(iii) on the next \$67,200 of adjusted federal taxable income or any part of that income, 8%;

(iv) on any adjusted federal taxable income in excess of \$100,000 or any part of that income, 8.9%;

(c) for each individual other than a surviving spouse or head of household who is not a married individual:

(i) on the first \$3,000 of adjusted federal taxable income or any part of that income, 5.33%;

(ii) on the next \$17,500 of adjusted federal taxable income or any part of that income, 6.67%;

(iii) on the next \$42,000 of adjusted federal taxable income or any part of that income, 8%;

(iv) on any adjusted federal taxable income in excess of \$62,500 or any part of that income, 8.9%;

(d) for each married individual who does not make a joint return and for each estate or trust not exempt from taxation under the Internal Revenue Code:

(i) on the first \$3,000 of adjusted federal taxable income or any part of that income, 5.33%;

(ii) on the next \$17,500 of adjusted federal taxable income or any part of that income, 6.67%;

(iii) on the next \$42,000 of adjusted federal taxable income or any part of that income, 8%;

(iv) on any adjusted federal taxable income in excess of \$62,500 or any part of that income, 8.9%.

(3) If exempt from taxation by Montana under federal law, the following items are subtracted from federal taxable income to determine adjusted federal taxable income:

(a) interest from obligations of the United States government and exempt-interest dividends attributable to that interest;

(b) railroad retirement benefits; and

(c) tribal-source income.

(4) (a) The department shall adjust the tax rates contained in subsections (2)(a) through (2)(d) as

provided in this subsection (4).

(b) Beginning in 2006, by January 31 of each year, the department shall divide each income tax rate contained in subsections (2)(a) through (2)(d) by the number determined by using the formula $TPYT/(TPYT04 \times CPI)$, where:

(i) TPYT is total individual income tax liability reported in the previous calendar year for the previous tax year;

(ii) TPYT04 is total individual income tax liability reported in calendar year 2004 for the 2003 tax year; and

(iii) CPI is the consumer price index for June of the previous calendar year divided by the consumer price index for June of 2003.

(c) The resulting adjusted tax rates as determined under subsection (4)(b) must be rounded to the nearest 100th of a percent. Except as provided in subsection (4)(d), the adjusted tax rates are effective for the current tax year and must be used to determine tax liability under this section.

(d) If the number determined under subsection (4)(b) is less than or equal to 1, there is no adjustment in the tax rate for the current tax year.

(5) A taxpayer who elects to file an income tax return under [sections 1 through 3] shall pay, in addition to the tax liability determined under subsection (2), a tax of \$50. The \$50 tax must be paid even if there is no tax liability determined under subsection (2).

NEW SECTION. Section 3. Return -- payment of alternative tax. (1) A taxpayer paying taxes pursuant to [sections 1 through 3] shall mail a copy of the taxpayer's federal income tax form to the department, together with any tax withholding statements. The taxpayer may, using instructions and forms provided by the department, compute the amount of taxes due, or the taxpayer may request that the department compute the amount of taxes due and bill the taxpayer if additional payments are due or pay a refund to the taxpayer if a refund is owed the taxpayer.

(2) If the taxpayer determines the amount of tax due, the taxpayer shall attach any payment that may be due to the federal tax form that the taxpayer mails to the department.

(3) If the taxpayer chooses to have the department determine the tax due and the department bills the taxpayer, the taxpayer shall pay any billed amount prior to the due date for filing income tax returns under this chapter.

NEW SECTION. **Section 4. Codification instruction.** [Sections 1 through 3] are intended to be codified as an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part 1, apply to [sections 1 through 3].

NEW SECTION. **Section 5. Effective date.** [This act] is effective January 1, 2004.

NEW SECTION. **Section 6. Applicability.** [This act] applies to tax years beginning after December 31, 2003.

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