

SENATE BILL NO. 443
INTRODUCED BY M. TAYLOR

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A TAX CREDIT FOR INDIVIDUAL INCOME TAXES PAID ON A CAPITAL GAIN FROM THE SALE OF A CONTROLLING INTEREST IN INCOME-PRODUCING PROPERTY; PROVIDING THAT THE CREDIT IS TO BE TAKEN EQUALLY OVER A 7-YEAR PERIOD FOLLOWING THE YEAR IN WHICH THE TAX ON THE CAPITAL GAIN IS PAID; PROVIDING THAT THERE IS NO CARRYFORWARD OR CARRYBACK OF THE CREDIT; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Capital gain credit for sale of income-producing asset -- installments over seven years. (1) An individual is allowed a credit against the taxes imposed by 15-30-103 in an amount equal to taxes paid by the individual on capital gains from the sale of a controlling interest in income-producing property. The credit is to be taken in seven equal installments beginning the tax year following the year in which the sale is reported and the tax on the sale is paid. The annual credit installment may not exceed the taxpayer's income tax liability for the year in which it is allowed. The annual allowable portion of the credit may not be carried forward or backward to any other tax year.

(2) For the purposes of determining the amount of tax paid on the capital gain, the taxpayer is presumed to have paid taxes on the qualifying sale amount at the top marginal rate set forth in 15-30-103 for the year in which the tax on the sale was reported and the tax on the sale was paid. If the amount of the capital gain exceeds the amount of income the taxpayer had subject to the top marginal rate, the rate for the balance of the capital gain is presumed to have been paid at the lesser rates in the appropriate declining rate brackets.

(3) To be eligible for the credit under this section, the property that was sold must be income-producing property located in Montana of which the taxpayer owned at least one-half at the time of its sale and the taxpayer's involvement in the production of income from the property was not a passive activity, as defined in section 469(c) of the Internal Revenue Code, 26 U.S.C. 469(c).

NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 1].

NEW SECTION. **Section 3. Applicability.** [This act] applies to tax years beginning after December 31, 2003.

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