

1 HOUSE BILL NO. 833

2 INTRODUCED BY STAHL

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO TAXATION; ~~ALLOWING A~~
5 ~~REFUNDABLE INCOME TAX CREDIT FOR THE AMOUNT OF PROPERTY TAXES PAID ON \$20,000 OF~~
6 ~~MARKET VALUE OF A PRINCIPAL RESIDENCE ATTRIBUTABLE TO THE 95-MILL STATEWIDE LEVIES TO~~
7 ~~FUND SCHOOLS; INCREASING THE INCOME TAX EXEMPTION TO AN AMOUNT EQUAL TO 80 PERCENT~~
8 ~~OF THE FEDERAL EXEMPTION AMOUNT; PROVIDING THAT THE REVENUE AND TRANSPORTATION~~
9 ~~INTERIM COMMITTEE EXAMINE THE CREDIT EACH INTERIM TO CHANGE THE RELIEF MULTIPLE~~
10 ~~FACTOR GOVERNING THE AMOUNT OF THE CREDIT; CONFORMING STATE WITHHOLDING PROVISIONS~~
11 ~~TO FEDERAL WITHHOLDING PROVISIONS FOR PENSIONS, ANNUITIES, AND CERTAIN OTHER DEFERRED~~
12 ~~INCOME; REQUIRING WITHHOLDING AT 30 PERCENT OF THE AMOUNT WITHHELD FOR FEDERAL TAX~~
13 ~~PURPOSES; PROHIBITING THE PRACTICE COMMONLY KNOWN AS INSURANCE STUFFING BY~~
14 ~~SPECIFYING WHEN CORPORATIONS MAY PROPERLY TAKE A DIVIDENDS-RECEIVED DEDUCTION FOR~~
15 ~~DIVIDENDS RECEIVED FROM INSURANCE COMPANIES; SPECIFYING HOW TO CALCULATE THE~~
16 ~~APPROPRIATE DIVIDENDS-RECEIVED DEDUCTION IN THOSE CIRCUMSTANCES; DISREGARDING THE~~
17 ~~PERMANENT DEFERRAL OF GAIN RECOGNITION FOR CERTAIN TRANSACTIONS; AUTHORIZING THE~~
18 ~~DEPARTMENT OF REVENUE TO INCLUDE IN THE GROSS INCOME THE TAXPAYER'S PRO RATA SHARE~~
19 ~~OF ANY OF THOSE INSURERS' CURRENT EARNINGS AND PROFITS IN THAT TAXABLE YEAR; PROVIDING~~
20 ~~A REFUND OF UP TO A TOTAL OF \$400 OF 2006 MONTANA PROPERTY TAXES PAID BY A TAXPAYER OR~~
21 ~~TAXPAYERS ON THE RESIDENCE THAT THEY OWNED AND OCCUPIED AS THEIR PRINCIPAL RESIDENCE~~
22 ~~FOR AT LEAST 7 MONTHS DURING 2006 AND OF CERTAIN 2005 AND 2004 MONTANA PROPERTY TAXES~~
23 ~~PAID ON THE PRINCIPAL RESIDENCE; PROVIDING THE PROCEDURE FOR ESTABLISHING ENTITLEMENT~~
24 ~~TO THE REFUND AND THE PERIOD WITHIN WHICH THE ENTITLEMENT MUST BE ESTABLISHED;~~
25 ~~PROVIDING A ONE-TIME REFUNDABLE RENTER'S INCOME TAX CREDIT; LIMITING THE CREDIT TO~~
26 ~~INDIVIDUALS BELOW A CERTAIN INCOME LEVEL; CREATING THE MINERAL ROYALTY BACKUP~~
27 ~~WITHHOLDING ACT; PROVIDING DEFINITIONS; REQUIRING REMITORS TO WITHHOLD TAXES ON~~
28 ~~ROYALTY PAYMENTS MADE TO ROYALTY OWNERS; PROVIDING EXCEPTIONS TO THE WITHHOLDING~~
29 ~~TAX; MAKING REMITORS LIABLE FOR PAYMENT OF WITHHOLDING TAXES; PROVIDING A WITHHOLDING~~
30 ~~TAX RATE AND REMITTANCE SCHEDULE; PROVIDING FOR PENALTIES AND INTEREST FOR FAILURE TO~~

1 REMIT TAX; REQUIRING REMITORS TO PROVIDE ANNUAL STATEMENTS TO ROYALTY OWNERS AND
2 THE DEPARTMENT OF REVENUE; ADOPTING PROVISIONS OF THE MULTISTATE TAX COMMISSION
3 MODEL ACT ON REPORTABLE TRANSACTIONS, THE MODEL ACT ON COMPILATION OF STATE TAX
4 RETURN DATA, AND THE MODEL ACT FOR A TAX EVASION TRANSACTION VOLUNTARY COMPLIANCE
5 PROGRAM; REQUIRING TAXPAYERS TO DISCLOSE CERTAIN TRANSACTIONS; REQUIRING MATERIAL
6 ADVISERS TO DISCLOSE CERTAIN TRANSACTIONS; REQUIRING TAX SHELTER PROMOTERS TO
7 DISCLOSE CERTAIN TRANSACTIONS AND MAINTAIN CERTAIN RECORDS; REQUIRING CERTAIN
8 MULTISTATE TAXPAYERS TO COMPILE AND FILE CERTAIN FILINGS OR FILE COPIES OF STATE INCOME
9 TAX RETURNS; PROVIDING FOR A VOLUNTARY COMPLIANCE INITIATIVE; CREATING THE MONTANA
10 REAL ESTATE BACKUP WITHHOLDING ACT; PROVIDING DEFINITIONS; REQUIRING WITHHOLDING FOR
11 INCOME TAX PURPOSES ON THE GAIN FROM THE SALE OR EXCHANGE OF CERTAIN MONTANA REAL
12 ESTATE; ESTABLISHING A WITHHOLDING TAX RATE; PROVIDING EXCEPTIONS TO WITHHOLDING;
13 ESTABLISHING REPORTING AND REMITTANCE REQUIREMENTS; REQUIRING THAT CERTAIN
14 INFORMATION BE SUBMITTED WITH THE REALTY TRANSFER CERTIFICATE; PROHIBITING THE
15 RECORDING OF A TRANSFER OF MONTANA REAL ESTATE OR A CHANGE IN OWNERSHIP RECORDS OF
16 MONTANA REAL ESTATE FOR PROPERTY TAX PURPOSES IF THE REQUIRED INFORMATION IS NOT
17 PROVIDED; PROVIDING RULEMAKING AUTHORITY TO THE DEPARTMENT OF REVENUE; CLARIFYING
18 THE LIABILITY OF CLERKS AND RECORDERS; PROHIBITING RESORT COMMUNITIES, RESORT AREAS,
19 AND RESORT AREA DISTRICTS FROM REQUIRING AN INTERMEDIARY TO COLLECT THE RESORT TAX;
20 DEFINING "PERSON" TO INCLUDE DISREGARDED ENTITIES; GRANTING AUTHORITY TO THE
21 DEPARTMENT OF REVENUE TO REQUIRE SOCIAL SECURITY NUMBERS OR TAXPAYER IDENTIFICATION
22 NUMBERS IN TAX MATTERS; CLARIFYING PAYMENT OF INTEREST ON LATE-FILED RETURNS;
23 PROVIDING PENALTIES FOR FRAUDULENT TAX REPORTING AND SUBSTANTIAL UNDERREPORTING OF
24 TAX LIABILITY; CLARIFYING THAT A SHERIFF'S FEES ARE ADDED TO THE BALANCE OF A WARRANT FOR
25 DISTRAINT; CONFORMING THE TIME TO MAKE A RETURN OF A WARRANT FOR DISTRAINT TO THE TIME
26 THE NOTICE OF LEVY IS EFFECTIVE; ALLOWING A NOTICE OF LEVY OF A WARRANT FOR DISTRAINT TO
27 BE SERVED ELECTRONICALLY; INCREASING THE SCOPE OF RURAL TELECOMMUNICATIONS
28 PROPERTY CLASSIFIED AS CLASS 5 PROPERTY BY INCREASING THE POPULATION LIMIT FOR CITIES
29 AND TOWNS SERVED TO 5,000, PROVIDING A 10-YEAR EXEMPTION OF 50 PERCENT OF MARKET VALUE
30 FOR NEW RURAL TELECOMMUNICATIONS PROPERTY; DEFINING "NEW RURAL TELECOMMUNICATIONS

1 PROPERTY"; INCREASING THE BUSINESS EQUIPMENT TAX EXEMPTION TO THE FIRST \$80,000 OF
2 MARKET VALUE OF PROPERTY; REQUIRING THAT THE CLASS 8 PROPERTY OF RELATED PERSONS BE
3 AGGREGATED IN DETERMINING WHETHER THE \$80,000 EXEMPTION THRESHOLD IS EXCEEDED;
4 EXEMPTING FROM TAXATION ITEMS OF PERSONAL PROPERTY WITH A MARKET VALUE OF LESS THAN
5 \$100; CLARIFYING THAT PROPERTY OWNED BY COMMERCIAL MOBILE RADIO SERVICE PROVIDERS IS
6 CENTRALLY ASSESSED FOR PROPERTY TAX PURPOSES; INCLUDING A GRANTOR TRUST AS A
7 DISREGARDED ENTITY; CONFORMING MONTANA'S TAXATION LAWS WITH THE INTERNAL REVENUE
8 CODE REGARDING THE TREATMENT OF QUALIFIED REAL ESTATE INVESTMENT TRUST SUBSIDIARIES
9 AS DISREGARDED ENTITIES; DEFINING "GRANTOR TRUST"; DEFINING "REAL ESTATE INVESTMENT
10 TRUST"; DIRECTING THE DEPARTMENT OF REVENUE TO WAIVE REPORTING REQUIREMENTS FOR
11 GRANTOR TRUSTS THAT ESTABLISH THAT THEIR MONTANA SOURCE INCOME WILL BE FULLY
12 ACCOUNTED FOR IN INDIVIDUAL INCOME TAX RETURNS, CORPORATION LICENSE TAX RETURNS, OR
13 CORPORATION INCOME TAX RETURNS FILED WITH THE STATE; TREATING GRANTOR TRUSTS AS
14 PASS-THROUGH ENTITIES FOR WITHHOLDING AND REPORTING PURPOSES; LIMITING THE FEDERAL
15 DEDUCTION FOR COMPUTATION OF TAXABLE INCOME OF ESTATES AND TRUSTS; EXTENDING THE
16 TIME PERIOD TO REQUEST REFUNDS FOR OVERPAYMENT OF INDIVIDUAL INCOME TAXES; CLARIFYING
17 THE ALLOWED EXTENSION OF TIME FOR FILING AN INDIVIDUAL INCOME TAX RETURN; REVISING THE
18 ELDERLY RESIDENTIAL PROPERTY TAX CREDIT TO PROVIDE A RESIDENTIAL PROPERTY TAX CREDIT
19 FOR INDIVIDUALS UNDER 62 YEARS OF AGE WHOSE GROSS HOUSEHOLD INCOME DOES NOT EXCEED
20 \$45,000; INCREASING THE CREDIT ALLOWED WHEN GROSS HOUSEHOLD INCOME IS AT LEAST \$35,000
21 BUT LOWER THAN \$45,000; REQUIRING INFORMATION AGENTS TO REPORT PROCEEDS FROM CERTAIN
22 REAL ESTATE TRANSACTIONS; REVISING INFORMATION SHARING AMONG STATE AGENCIES;
23 REQUIRING THE DISCLOSURE OF A PORTION OF THE FEDERAL TAX IDENTIFICATION NUMBER OF A
24 BUSINESS ENTITY ON THE ANNUAL REPORT FILED WITH THE OFFICE OF THE SECRETARY OF STATE;
25 LIMITING DISCLOSURE OF THE FEDERAL TAX IDENTIFICATION NUMBER; AUTHORIZING THE
26 DEPARTMENT OF REVENUE TO DISCLOSE CERTAIN INFORMATION FROM TAX RETURNS AND REPORTS
27 TO THE SECRETARY OF STATE; GENERALLY REVISING AND CLARIFYING THE TAXATION OF REAL
28 ESTATE INVESTMENT TRUSTS; PROVIDING A TAX CREDIT FOR THE MARKET VALUE OF REAL
29 PROPERTY CONTRIBUTED TO THE STATE OF MONTANA BY A REAL ESTATE INVESTMENT TRUST;
30 PROVIDING AN EXCLUSION, UNDER CERTAIN CONDITIONS, FROM THE ADJUSTED GROSS INCOME OR

1 FROM THE CORPORATE GROSS INCOME OF SHAREHOLDERS AND HOLDERS OF BENEFICIAL
2 INTERESTS OF REAL ESTATE INVESTMENT TRUSTS FOR DIVIDENDS RECEIVED FROM A REAL ESTATE
3 INVESTMENT TRUST; PROVIDING FOR THE DETERMINATION OF THE NET INCOME OF REAL ESTATE
4 INVESTMENT TRUSTS; DISALLOWING THE DIVIDENDS PAID DEDUCTION ALLOWED UNDER THE
5 INTERNAL REVENUE CODE IN DETERMINING THE TAXABLE INCOME OF A REAL ESTATE INVESTMENT
6 TRUST; CLARIFYING, IN ACCORDANCE WITH THE INTERNAL REVENUE CODE, THAT A DEDUCTION FOR
7 DIVIDENDS RECEIVED FROM A REGULATED INVESTMENT COMPANY OR A REAL ESTATE INVESTMENT
8 TRUST IS NOT ALLOWED; CLARIFYING THAT ALL TAXABLE INCOME OF A REAL ESTATE INVESTMENT
9 TRUST IS TAXED AT THE CORPORATE LICENSE TAX RATE; CLARIFYING THE CALCULATION OF THE NET
10 OPERATING LOSS OF A REAL ESTATE INVESTMENT TRUST; ALLOWING THE BOARD OF LAND
11 COMMISSIONERS TO ACCEPT UNRESTRICTED DONATIONS OF REAL PROPERTY FROM REAL ESTATE
12 INVESTMENT TRUSTS; PROVIDING FOR THE INCLUSION OF ALL DOMESTICALLY INCORPORATED
13 SUBSIDIARIES IN THE WATER'S-EDGE GROUP; PROVIDING FOR THE INCLUSION IN THE WATER'S-EDGE
14 GROUP INCOME THAT HAS A FEDERALLY REPORTABLE U.S. SOURCE; PREVENTING INCOME-SHIFTING
15 TO FOREIGN INTANGIBLE HOLDING COMPANIES; UPDATING THOSE COUNTRIES CONSIDERED TAX
16 HAVENS; PROVIDING IMPACTED TAXPAYERS THE ABILITY TO RESCIND A WATER'S-EDGE ELECTION;
17 PROVIDING A 5-YEAR PERIOD OF LIMITATIONS FOR ASSESSMENT, COLLECTION, OR REFUND OF
18 CORPORATION LICENSE TAX; INCREASING THE INDIVIDUAL INCOME TAX CREDIT FOR
19 ENERGY-CONSERVING EXPENDITURES; PROVIDING A TAX CREDIT FOR TAXPAYERS WITH CERTAIN
20 INCOME LEVELS AND FOR CERTAIN OWNERS OF PASS-THROUGH ENTITIES; PROVIDING A REFUND FOR
21 UNUSED ENERGY-CONSERVING EXPENDITURE TAX CREDITS; REMOVING THE REQUIREMENT FOR
22 COAL MINE OPERATORS TO REPORT TONS OF COAL SOLD; CLARIFYING THE REQUIREMENT FOR
23 FILING OF DUPLICATE UNITED STATES ESTATE TAX RETURNS WITH THE DEPARTMENT OF REVENUE;
24 DIRECTING CIGARETTE TAX APPEALS TO THE DEPARTMENT OF REVENUE; REVISING AND CLARIFYING
25 CERTAIN PROVISIONS OF THE RESORT TAX, THE LODGING FACILITY USE TAX, AND THE SALES AND
26 USE TAX; REVISING THE DEFINITION OF "FACILITY" FOR THE LODGING FACILITY USE TAX AND THE
27 DEFINITION OF "ACCOMMODATIONS" FOR THE SALES AND USE TAX; CLARIFYING THE DETERMINATION
28 OF ACCOMMODATION CHARGES THAT ARE SUBJECT TO THE LODGING FACILITY USE TAX AND THE
29 SALES AND USE TAX; CLARIFYING THE DETERMINATION OF THE BASE RENTAL CHARGES THAT ARE
30 SUBJECT TO THE SALES AND USE TAX; PROVIDING THAT THE LODGING FACILITY USE TAX AND THE

1 SALES AND USE TAX ON ACCOMMODATION CHARGES AND BASE RENTAL CHARGES APPLY TO
 2 CERTAIN CHARGES IMPOSED BY INTERMEDIARIES; REQUIRING THAT THE LODGING FACILITY USE TAX
 3 AND THE SALES AND USE TAX BE INTERPRETED AND ADMINISTERED TOGETHER; EXEMPTING FOR 2
 4 YEARS VEHICLE REGISTRATION FEES ON NEW LIGHT VEHICLES BASED ON A MILES-PER-GALLON
 5 RATING; CLARIFYING QUALIFICATIONS FOR DEPENDENTS WITH REGARD TO INDIVIDUAL INCOME TAX
 6 EXEMPTIONS; AMENDING SECTIONS 7-4-2623, 7-6-1502, 7-6-1505, 15-1-102, 15-1-201, 15-1-216, 15-1-706,
 7 15-6-135, 15-6-138, 15-6-219, 15-23-101, 15-30-101, 15-30-111, 15-30-112, AND 15-30-142 15-30-136,
 8 15-30-144, 15-30-149, 15-30-171, 15-30-172, 15-30-173, 15-30-174, 15-30-175, 15-30-176, 15-30-177,
 9 15-30-178, 15-30-179, 15-30-301, 15-30-303, 15-30-1102, 15-31-113, 15-31-114, 15-31-119, 15-31-322,
 10 15-31-323, 15-31-324, 15-31-326, 15-31-509, 15-31-511, 15-31-603, 15-32-109, 15-35-104, 15-36-313,
 11 15-39-105, 15-39-107, 15-62-207, 15-62-208, 15-65-101, 15-65-102, 15-65-111, 15-65-112, 15-65-113,
 12 15-65-114, 15-65-115, 15-68-101, 15-68-110, 15-68-210, 15-68-402, 15-68-501, 15-68-502, 15-68-510,
 13 15-68-512, 15-68-516, 16-11-149, 35-1-1104, 35-8-208, 61-3-321, 72-3-1006, AND 77-1-213, MCA; AND
 14 PROVIDING AN IMMEDIATE EFFECTIVE DATE DATES AND A RETROACTIVE APPLICABILITY DATE
 15 DATES."

16

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

18

19 ~~NEW SECTION. Section 1. Refundable income tax credit -- statewide equalization property tax~~
 20 ~~levies on principal residence. (1) (a) There is a credit against the tax imposed by this chapter, which is~~
 21 ~~calculated by multiplying the amount of property taxes imposed and paid on a property taxpayer's principal~~
 22 ~~residence under 20-9-331, 20-9-333, and 20-9-360 on \$20,000 of market value on the residence times the relief~~
 23 ~~multiple.~~

24 ~~(b) As used in subsection (1)(a), the relief multiple is a number used to change the amount of tax relief~~
 25 ~~allowed under this section. The relief multiple is 5. Each interim the revenue and transportation interim committee~~
 26 ~~shall, based upon actual and projected state revenue and spending and any other appropriate factors, determine~~
 27 ~~if a change in the relief multiple is justified. If a change is justified, the committee shall request a bill to change~~
 28 ~~the relief multiple.~~

29 ~~(2) As used in this section, "principal residence" means a class four residential dwelling that is a~~
 30 ~~single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and as~~

1 much of the surrounding land, not exceeding 5 acres, as is reasonably necessary for its use as a dwelling and
2 that is occupied by the owner for at least 7 months during the tax year.

3 ~~—— (3) Only one claim may be made with respect to any property.~~

4 ~~—— (4) If the amount of the credit exceeds the claimant's liability under this chapter, the amount of the excess
5 must be refunded to the claimant. The credit may be claimed even if the claimant has no income taxable under
6 this chapter.~~

7
8 **NEW SECTION. SECTION 1. WITHHOLDING FROM PENSIONS, ANNUITIES, AND CERTAIN OTHER DEFERRED**

9 **INCOME. (1) IN CONFORMITY WITH SECTION 3405 OF THE INTERNAL REVENUE CODE, 26 U.S.C. 3405, THE PAYOR OF**
10 **ANY PERIODIC PAYMENT, NONPERIODIC DISTRIBUTION, OR DESIGNATED DISTRIBUTION, AS DEFINED IN THAT SECTION,**
11 **SHALL:**

12 **(A) WITHHOLD FROM THE PAYMENT 30% OF THE AMOUNT, IF ANY, WITHHELD FOR FEDERAL TAX PURPOSES; AND**

13 **(B) WITHHOLD THE AMOUNT IN SUBSECTION (1)(A) AND IS LIABLE FOR PAYMENT OF THE TAX WHEN REQUIRED TO**
14 **WITHHOLD THE AMOUNT FOR FEDERAL PURPOSES.**

15 **(2) IF A PERIODIC PAYMENT, NONPERIODIC DISTRIBUTION, OR DESIGNATED DISTRIBUTION IS NOT SUBJECT TO**
16 **FEDERAL WITHHOLDING BECAUSE A FEDERAL ELECTION OF NO WITHHOLDING WAS MADE UNDER SECTION 3405 OF THE**
17 **INTERNAL REVENUE CODE, 26 U.S.C. 3405, THEN STATE WITHHOLDING IS NOT REQUIRED AND THE AMOUNT WITHHELD**
18 **IS CONSIDERED ZERO.**

19 **(3) AMOUNTS WITHHELD UNDER THIS SECTION MUST BE TREATED AS IF THE AMOUNTS WERE WITHHELD FROM**
20 **WAGES PAID BY AN EMPLOYER TO AN EMPLOYEE SUBJECT TO WITHHOLDING UNDER 15-30-202.**

21
22 **NEW SECTION. SECTION 2. DEFINITIONS. FOR THE PURPOSES OF [SECTIONS 2 THROUGH 8], UNLESS**

23 **OTHERWISE REQUIRED BY THE CONTEXT, THE FOLLOWING DEFINITIONS APPLY:**

24 **(1) "CAPITALIZATION PERCENTAGE" MEANS THE APPROPRIATE PERCENTAGE ESTABLISHED IN [SECTION 3].**

25 **(2) "COMBINED REPORTING GROUP" MEANS THOSE CORPORATIONS WHOSE INCOME IS REQUIRED TO BE**
26 **INCLUDED IN THE SAME COMBINED REPORT PURSUANT TO 15-31-301 OR 15-31-322.**

27 **(3) "COMMONLY CONTROLLED GROUP" MEANS A PARENT CORPORATION AND ANY ONE OR MORE CORPORATIONS**
28 **OR CHAINS OF CORPORATIONS CONNECTED THROUGH STOCK OWNERSHIP OR CONSTRUCTIVE OWNERSHIP WITH THE**
29 **PARENT IF:**

30 **(A) THE PARENT OWNS STOCK WITH MORE THAN 50% OF THE VOTING POWER OF AT LEAST ONE CORPORATION;**

1 AND

2 (B) STOCK CUMULATIVELY REPRESENTING MORE THAN 50% OF THE VOTING POWER OF EACH OF THE
3 CORPORATIONS, EXCEPT THE PARENT, IS OWNED BY THE PARENT, ONE OR MORE CORPORATIONS DESCRIBED IN
4 SUBSECTION (3)(A), OR ONE OR MORE OTHER CORPORATIONS THAT SATISFY THE CONDITIONS OF THIS SUBSECTION (3)(B),
5 IF APPLICABLE.

6 (4) "DIRECT WRITTEN PREMIUMS" MEANS AMOUNTS WRITTEN BY AN INSURANCE COMPANY IN CONSIDERATION
7 FOR INSURANCE AND ANNUITY CONTRACTS ISSUED TO POLICYHOLDERS.

8 (5) "DIVIDEND" MEANS, FOR PURPOSES OF CALCULATING THE DIVIDENDS-RECEIVED DEDUCTION FOR ANY TAX
9 YEAR DESCRIBED IN [SECTION 3], THE TOTAL AMOUNT OF QUALIFIED DIVIDENDS ALLOWED AS A DEDUCTION FOR FEDERAL
10 INCOME TAX PURPOSES RECEIVED BY THE CORPORATION FROM THE INSURER CORPORATION.

11 (6) "5-YEAR AVERAGE" MEANS THE AGGREGATE NET WRITTEN PREMIUMS OR TOTAL INCOME, AS THE CASE MAY
12 BE, OVER THE 5 IMMEDIATELY PRECEDING CALENDAR OR FISCAL YEARS, DIVIDED BY FIVE. IF AN INSURANCE COMPANY IN
13 THE COMMONLY CONTROLLED GROUP HAS BEEN IN EXISTENCE FOR FEWER THAN 5 YEARS, ITS AGGREGATE NET WRITTEN
14 PREMIUMS AND TOTAL INCOME MUST EACH BE MULTIPLIED BY FIVE AND DIVIDED BY THE NUMBER OF YEARS OF ITS
15 EXISTENCE. IF AN INSURANCE COMPANY DOES NOT HAVE A REGULATORY FILING REQUIREMENT, THE PERIOD COVERED
16 IS THE FISCAL YEAR USED FOR THE INSURANCE COMPANY'S FINANCIAL STATEMENTS. THE USE OF EITHER THE CALENDAR
17 YEAR OR FISCAL YEAR THAT IS USED FOR THE DETERMINATION OF THE FIRST TAX YEAR 5-YEAR AVERAGE IS CONSIDERED
18 AN ACCOUNTING METHOD UNDER [SECTIONS 2 THROUGH 8] AND MAY BE CHANGED IN SUBSEQUENT TAX YEARS ONLY WITH
19 THE WRITTEN CONSENT OF THE DEPARTMENT.

20 (7) (A) "INVESTMENT INCOME" MEANS AN INSURANCE COMPANY'S EARNINGS FROM ITS INVESTMENT PORTFOLIO,
21 INCLUDING INTEREST, DIVIDENDS, REALIZED GAINS OR LOSSES, AND RENT, THAT, UNLESS OTHERWISE PROVIDED IN
22 SUBSECTIONS (7)(B) THROUGH (7)(D), IS REQUIRED TO BE REPORTED IN AN INSURER'S STATUTORY ANNUAL STATEMENT
23 IN ACCORDANCE WITH THE ANNUAL STATEMENT INSTRUCTIONS AND ACCOUNTING PRACTICES AND PROCEDURES MANUAL
24 PROMULGATED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

25 (B) EXCEPT FOR REINSURANCE TRANSACTIONS, REALIZED GAINS OR LOSSES DO NOT INCLUDE LOSSES INCURRED
26 IN TRANSACTIONS WITH A PERSON THAT IS A MEMBER OF THE TAXPAYER'S OR THE INSURANCE COMPANY'S COMMONLY
27 CONTROLLED GROUP.

28 (C) INVESTMENT INCOME DOES NOT INCLUDE DIVIDENDS FROM A PERSON THAT IS A MEMBER OF THE COMMONLY
29 CONTROLLED GROUP. INTERCOMPANY DIVIDENDS THAT HAVE BEEN ELIMINATED FROM INVESTMENT INCOME AS WOULD
30 BE REQUIRED TO BE REPORTED IN THE STATUTORY ANNUAL STATEMENT IN ACCORDANCE WITH THE ANNUAL STATEMENT

1 INSTRUCTIONS AND ACCOUNTING PRACTICES AND PROCEDURES MANUAL PROMULGATED BY THE NATIONAL ASSOCIATION
2 OF INSURANCE COMMISSIONERS MAY NOT AGAIN BE ELIMINATED FOR THIS PURPOSE.

3 (D) INVESTMENT INCOME DOES NOT INCLUDE INCOME INCLUDED IN THE TAXPAYER'S COMBINED REPORT FILED
4 IN ACCORDANCE WITH THIS CHAPTER.

5 (8) "INSURER" HAS THE MEANING PROVIDED IN 33-1-201.

6 (9) (A) "NET INCOME ATTRIBUTABLE TO INVESTMENT INCOME" MEANS NET INCOME OF THE INSURER MULTIPLIED
7 BY A RATIO, THE NUMERATOR OF WHICH IS THE INSURER'S GROSS INVESTMENT INCOME FROM INTEREST, DIVIDENDS
8 (OTHER THAN DIVIDENDS FROM MEMBERS OF THE TAXPAYER'S COMMONLY CONTROLLED GROUP), RENT, AND REALIZED
9 GAINS OR LOSSES, AND THE DENOMINATOR OF WHICH IS THE INSURER'S GROSS INCOME (OTHER THAN DIVIDENDS FROM
10 MEMBERS OF THE TAXPAYER'S COMMONLY CONTROLLED GROUP) FROM ALL SOURCES.

11 (B) FOR THE PURPOSES OF THIS DEFINITION, IF AN INSURER IS REQUIRED TO FILE A STATUTORY ANNUAL
12 STATEMENT PURSUANT TO THE ANNUAL STATEMENT INSTRUCTIONS AND ACCOUNTING PRACTICES AND PROCEDURES
13 MANUAL PROMULGATED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, "NET INCOME" MEANS NET
14 INCOME REQUIRED TO BE REPORTED IN THE INSURER'S STATUTORY ANNUAL STATEMENT.

15 (10) (A) "NET WRITTEN PREMIUMS" MEANS DIRECT WRITTEN PREMIUMS PLUS PREMIUMS FROM REINSURANCE
16 ASSUMED, LESS PREMIUMS CEDED TO A REINSURANCE COMPANY, AS WOULD BE REQUIRED TO BE REPORTED IN AN
17 INSURER'S STATUTORY ANNUAL STATEMENT IN ACCORDANCE WITH THE ANNUAL STATEMENT INSTRUCTIONS AND
18 ACCOUNTING PRACTICES AND PROCEDURES MANUAL PROMULGATED BY THE NATIONAL ASSOCIATION OF INSURANCE
19 COMMISSIONERS.

20 (B) NET WRITTEN PREMIUMS FROM LIFE INSURANCE CONTRACTS ARE DETERMINED BY MULTIPLYING THE NET
21 WRITTEN PREMIUMS RECEIVED, ASSUMED, OR CEDED BY 1.3.

22 (C) NET WRITTEN PREMIUMS FROM FINANCIAL GUARANTY INSURANCE CONTRACTS ARE DETERMINED BY
23 MULTIPLYING THE NET WRITTEN PREMIUMS RECEIVED, ASSUMED, OR CEDED BY THE LESSER OF 2.3 OR AN AMOUNT THAT
24 WOULD CAUSE THE RATIO OF THE 5-YEAR AVERAGE NET WRITTEN PREMIUMS FOR ALL FINANCIAL GUARANTY INSURANCE
25 COMPANIES IN THE COMMONLY CONTROLLED GROUP TO THE 5-YEAR AVERAGE TOTAL INCOME FOR ALL FINANCIAL
26 GUARANTY INSURANCE COMPANIES IN THE COMMONLY CONTROLLED GROUP TO BE EQUAL TO THE APPLICABLE
27 CAPITALIZATION PERCENTAGE.

28 (11) "PREMIUMS FROM REINSURANCE ASSUMED" MEANS AMOUNTS RECEIVED OR ACCRUED BY AN INSURANCE
29 COMPANY IN CONSIDERATION FOR LIABILITIES IT ASSUMES FROM ANOTHER INSURANCE COMPANY.

30 (12) "QUALIFIED DIVIDEND" MEANS A DIVIDEND RECEIVED BY A CORPORATION DURING THE TAX YEAR FROM A

1 CORPORATION THAT IS AN INSURER, WHETHER OR NOT THE INSURER IS ENGAGED IN BUSINESS IN MONTANA, IF AT THE TIME
 2 OF EACH DIVIDEND PAYMENT AT LEAST 80% OF EACH CLASS OF STOCK OF THE INSURER WAS OWNED, DIRECTLY OR
 3 INDIRECTLY, BY THE CORPORATION RECEIVING THE DIVIDEND.

4 (13) "TOTAL INCOME" MEANS NET WRITTEN PREMIUMS PLUS INVESTMENT INCOME.

5
 6 **NEW SECTION. SECTION 3. REDUCTION OF DIVIDENDS RECEIVED BY CORPORATIONS -- CAPITALIZATION**
 7 **PERCENTAGE. (1) FOR THE PURPOSES OF CALCULATING THE DIVIDENDS-RECEIVED DEDUCTION ALLOWED FOR MONTANA**
 8 **PURPOSES, THE AMOUNT OF DIVIDENDS MUST BE MULTIPLIED BY THE APPROPRIATE CAPITALIZATION PERCENTAGE**
 9 **DETERMINED UNDER SUBSECTIONS (2) THROUGH (4).**

10 (2) IF THE RATIO OF THE 5-YEAR AVERAGE NET WRITTEN PREMIUMS FOR ALL INSURANCE COMPANIES IN A
 11 COMMONLY CONTROLLED GROUP TO THE 5-YEAR AVERAGE TOTAL INCOME FOR ALL INSURANCE COMPANIES IN THE
 12 COMMONLY CONTROLLED GROUP FOR THE TAX YEAR IS GREATER THAN OR EQUAL TO 60%, THEN THE CAPITALIZATION
 13 PERCENTAGE IS 100%.

14 (3) IF THE RATIO OF THE 5-YEAR AVERAGE NET WRITTEN PREMIUMS FOR ALL INSURANCE COMPANIES IN A
 15 COMMONLY CONTROLLED GROUP TO THE 5-YEAR AVERAGE TOTAL INCOME FOR ALL INSURANCE COMPANIES IN THE
 16 COMMONLY CONTROLLED GROUP FOR THE TAX YEAR IS LESS THAN 60% BUT GREATER THAN 10%, THEN THE
 17 CAPITALIZATION PERCENTAGE IS EQUAL TO THE FOLLOWING FRACTION, EXPRESSED AS A PERCENTAGE:

18 (A) THE NUMERATOR IS THE 5-YEAR AVERAGE NET WRITTEN PREMIUMS FOR THE TAX YEAR; AND

19 (B) THE DENOMINATOR IS 60% OF THE 5-YEAR AVERAGE TOTAL INCOME FOR THAT TAX YEAR.

20 (4) IF THE RATIO OF THE 5-YEAR AVERAGE NET WRITTEN PREMIUMS FOR ALL INSURANCE COMPANIES IN A
 21 COMMONLY CONTROLLED GROUP TO THE 5-YEAR AVERAGE TOTAL INCOME FOR ALL INSURANCE COMPANIES IN THE
 22 COMMONLY CONTROLLED GROUP FOR THE TAX YEAR IS 10% OR LESS, THEN THE CAPITALIZATION PERCENTAGE IS 0%.

23
 24 **NEW SECTION. SECTION 4. DEDUCTIONS NOT ALLOWED FOR CERTAIN EXPENSES. (1) A DEDUCTION IS NOT**
 25 **ALLOWED FOR ANY EXPENSE UNDER SUBSECTION (2) THAT IS PAID OR INCURRED TO AN INSURER IF THE INSURER IS A**
 26 **MEMBER OF THE TAXPAYER'S COMMONLY CONTROLLED GROUP AND THE AMOUNT PAID OR INCURRED WOULD CONSTITUTE**
 27 **INCOME TO THE INSURER IF THE INSURER WERE SUBJECT TO THE MONTANA INCOME OR FRANCHISE TAX.**

28 (2) (A) THE FOLLOWING INTEREST AMOUNTS PAYABLE TO AN INSURER IN THE SAME COMMONLY CONTROLLED
 29 GROUP ARE DISALLOWED:

30 (I) INTEREST PAID OR INCURRED TO AN INSURER IN THE TAXPAYER'S COMMONLY CONTROLLED GROUP WITH

1 RESPECT TO INDEBTEDNESS, OTHER THAN QUALIFIED MARKETABLE DEBT INSTRUMENTS, THE PRINCIPAL AMOUNT OF WHICH
2 IS ATTRIBUTABLE TO A CONTRIBUTION OF MONEY BY A NONINSURER MEMBER OF THE TAXPAYER'S COMMONLY CONTROLLED
3 GROUP TO THE CAPITAL OF AN INSURER MEMBER OF THAT GROUP, INCLUDING THE PRINCIPAL AMOUNT OF A LOAN ARISING
4 FROM A DIRECT OR INDIRECT TRANSFER OF MONEY FROM THAT CONTRIBUTION TO CAPITAL FROM ONE INSURER TO
5 ANOTHER INSURER OF THE SAME COMMONLY CONTROLLED GROUP;

6 (II) INTEREST PAID OR INCURRED TO AN INSURER WITH RESPECT TO A NOTE OR OTHER DEBT INSTRUMENT, OTHER
7 THAN QUALIFIED MARKETABLE DEBT INSTRUMENTS, CONTRIBUTED TO THE CAPITAL OF AN INSURER WITH RESPECT TO ITS
8 STOCK BY A NONINSURER MEMBER OF THE COMMONLY CONTROLLED GROUP;

9 (III) INTEREST PAID OR INCURRED WITHIN 5 YEARS AFTER THE DIRECT OR INDIRECT ACQUISITION OF THE INSURER
10 BY A MEMBER OF THE COMMONLY CONTROLLED GROUP, OTHER THAN INTEREST ON QUALIFIED MARKETABLE DEBT
11 INSTRUMENTS;

12 (IV) INTEREST PAID OR INCURRED DURING THE TAX YEAR TO ANY INSURER IN THE COMMONLY CONTROLLED GROUP
13 MULTIPLIED BY THE DISQUALIFYING PERCENTAGE. THE DISQUALIFYING PERCENTAGE IS AN AMOUNT EQUAL TO 100% LESS
14 THE CAPITALIZATION PERCENTAGE PROVIDED FOR IN [SECTION 3(2), (4), OR (5)] FOR THAT TAX YEAR WHETHER OR NOT
15 A DIVIDEND IS PAID OR ACCRUED.

16 (B) THE FOLLOWING NONINTEREST EXPENSES ARE DISALLOWED:

17 (I) EXPENSES ATTRIBUTABLE TO PROPERTY FORMERLY HELD BY THE TAXPAYER OR A MEMBER OF THE TAXPAYER'S
18 COMMONLY CONTROLLED GROUP THAT WAS ACQUIRED BY THE INSURER IN A TRANSACTION IN WHICH GAIN WAS REALIZED
19 BUT NOT RECOGNIZED, INCLUDING ANY INCOME DEFERRED UNDER [SECTION 5], BY THE TAXPAYER OR A MEMBER OF ITS
20 COMMONLY CONTROLLED GROUP;

21 (II) EXPENSES ATTRIBUTABLE TO PROPERTY PURCHASED WITH THE PROCEEDS ATTRIBUTABLE TO A CONTRIBUTION
22 BY A NONINSURER MEMBER OF THE TAXPAYERS' COMMONLY CONTROLLED GROUP TO THE CAPITAL OF AN INSURER MEMBER
23 OF THAT GROUP, INCLUDING AMOUNTS ATTRIBUTABLE TO A DIRECT OR INDIRECT TRANSFER OF MONEY FROM THAT
24 CONTRIBUTION FROM ONE INSURER TO ANOTHER INSURER IN THE SAME GROUP.

25 (3) EXPENSES THAT MAY BE DISALLOWED BY MORE THAN ONE EXPENSE EXCLUSION IN SUBSECTION (2) MAY BE
26 INCLUDED ONLY IN THE EXCLUSION THAT WILL RESULT IN THE HIGHEST DISALLOWANCE AMOUNT.

27 (4) FOR PURPOSES OF THIS SECTION, THE FOLLOWING DEFINITIONS APPLY:

28 (A) "QUALIFIED MARKETABLE DEBT INSTRUMENTS" MEANS PUBLICLY AVAILABLE DEBT INSTRUMENTS OF ALL
29 NONINSURER MEMBERS OF THE COMMONLY CONTROLLED GROUP ISSUED, BUT ONLY TO THE EXTENT THAT THE AGGREGATE
30 PRINCIPAL AMOUNT OF PUBLICLY AVAILABLE DEBT INSTRUMENTS HELD BY ALL INSURER MEMBERS OF THE COMMONLY

1 CONTROLLED GROUP CONSTITUTES LESS THAN 10% OF THE TOTAL OUTSTANDING PRINCIPAL AMOUNT OF PUBLICLY
 2 AVAILABLE DEBT INSTRUMENTS ISSUED BY ALL NONINSURER MEMBERS.

3 (B) "PUBLICLY AVAILABLE DEBT INSTRUMENTS" MEANS DEBT INSTRUMENTS AVAILABLE TO THE GENERAL PUBLIC,
 4 INCLUDING BONDS, DEBENTURES, AND NEGOTIABLE INSTRUMENTS THAT ARE RATED BY A NATIONALLY RECOGNIZED
 5 STATISTICAL RATING ORGANIZATION, AS THAT TERM IS USED IN RULE 15c3-1(C)(2)(VI)(F) UNDER THE SECURITIES
 6 EXCHANGE ACT OF 1934, IN ONE OF ITS GENERIC RATING CATEGORIES THAT SIGNIFIES INVESTMENT GRADE.

7
 8 NEW SECTION. SECTION 5. TRANSFER OF PROPERTY TO INSURER. (1) (A) EXCEPT AS PROVIDED IN
 9 SUBSECTION (1)(B), IN CONNECTION WITH ANY EXCHANGE DESCRIBED IN SECTION 332, 351, 354, 356, OR 361 OF THE
 10 INTERNAL REVENUE CODE, 26 U.S.C. 332, 351, 354, 356, OR 361, WHEN A TAXPAYER TRANSFERS PROPERTY TO AN
 11 INSURER, THE INSURER, FOR PURPOSES OF DETERMINING THE EXTENT TO WHICH GAIN IS RECOGNIZED ON THAT
 12 TRANSFER, IS NOT, FOR THE PURPOSES OF THIS SECTION, CONSIDERED A CORPORATION.

13 (B) THE PROVISIONS OF SUBSECTION (1)(A) DO NOT APPLY TO ANY OF THE FOLLOWING TYPES OF TRANSACTIONS
 14 UNLESS THAT TRANSACTION HAS THE EFFECT, EITHER DIRECTLY OR INDIRECTLY, OF TRANSFERRING APPRECIATED
 15 PROPERTY FROM A TAXPAYER SUBJECT TO TAX UNDER THIS CHAPTER OR A MEMBER OF THE TAXPAYER'S COMBINED
 16 REPORTING GROUP, TO AN INSURER:

17 (I) AN EXCHANGE OR TRANSFER PURSUANT TO SECTION 368(A)(2)(D) OR (A)(2)(E) OF THE INTERNAL REVENUE
 18 CODE, 26 U.S.C. 368(A)(2)(D) OR (A)(2)(E);

19 (II) A TRANSFER OF STOCK IN AN 80%-OWNED INSURER FOR THE PURPOSE OF FILING A CONSOLIDATED TAX
 20 RETURN OR FOR FINANCIAL OR REGULATORY REPORTING; OR

21 (III) A TRANSFER OR EXCHANGE OF PUBLICLY OWNED STOCK OF THE PARENT CORPORATION.

22 (C) (I) IF A TRANSACTION DESCRIBED IN SUBSECTION (1)(B) WOULD QUALIFY UNDER THAT SUBSECTION EXCEPT
 23 THAT THE TRANSACTION HAS THE EFFECT, DIRECTLY OR INDIRECTLY, OF TRANSFERRING APPRECIATED PROPERTY FROM
 24 A TAXPAYER OR A MEMBER OF THE TAXPAYER'S COMBINED REPORTING GROUP, SUBJECT TO TAX UNDER THIS CHAPTER,
 25 TO AN INSURER, THEN, IF THE PROPERTY IS USED IN THE ACTIVE TRADE OR BUSINESS OF THE INSURER, SUBSECTION (2)
 26 APPLIES TO THAT TRANSFER.

27 (II) FOR PURPOSES OF THIS SUBSECTION (1)(C), "APPRECIATED PROPERTY" MEANS PROPERTY WHOSE FAIR
 28 MARKET VALUE, AS OF THE DATE OF THE TRANSFER SUBJECT TO THIS SECTION, EXCEEDS ITS ADJUSTED BASIS AS OF THAT
 29 DATE.

30 (2) (A) IF PROPERTY SUBJECT TO SUBSECTION (1)(A) OR (6) IS TRANSFERRED TO AN INSURER FOR USE IN THE

1 ACTIVE CONDUCT OF A TRADE OR BUSINESS OF THE INSURER, THEN ANY GAIN OTHERWISE REQUIRED TO BE RECOGNIZED
2 UNDER SUBSECTION (1)(A) OR (6) IS DEFERRED UNTIL THE DATE THAT:

3 (I) THE PROPERTY IS NO LONGER OWNED BY AN INSURER IN THE TAXPAYER'S COMMONLY CONTROLLED GROUP
4 OR A MEMBER OF THE TAXPAYER'S COMBINED REPORTING GROUP;

5 (II) THE PROPERTY IS NO LONGER USED IN THE ACTIVE CONDUCT OF THE INSURER'S TRADE OR BUSINESS OR THE
6 TRADE OR BUSINESS OF ANOTHER MEMBER IN THE TAXPAYER'S COMBINED REPORTING GROUP; OR

7 (III) THE HOLDER OF THE PROPERTY IS NO LONGER HELD BY AN INSURER IN THE COMMONLY CONTROLLED GROUP
8 OF THE TRANSFEROR OR A MEMBER OF THE TAXPAYER'S COMBINED REPORTING GROUP.

9 (B) ANY OF THE EVENTS DESCRIBED IN SUBSECTION (2)(A) MUST BE TREATED AS A DISPOSITION OF THE
10 PROPERTY UNDER THIS SUBSECTION (2), IRRESPECTIVE OF WHETHER ANY OTHER PROVISION OF THIS CHAPTER OR IN THE
11 INTERNAL REVENUE CODE WOULD OTHERWISE PERMIT NONRECOGNITION TREATMENT OF THE TRANSACTION DESCRIBED
12 IN THIS SUBSECTION (2).

13 (C) AN INSURER THAT BECOMES A MEMBER OF THE TAXPAYER'S COMMONLY CONTROLLED GROUP OR A
14 CORPORATION THAT BECOMES A MEMBER OF THE TAXPAYER'S COMBINED REPORTING GROUP AS A RESULT OF A
15 TRANSACTION REFERRED TO IN THIS SUBSECTION (2) MUST BE TREATED AS A MEMBER OF THE TAXPAYER'S COMMONLY
16 CONTROLLED GROUP OR A MEMBER OF THE TAXPAYER'S COMBINED REPORTING GROUP AT THE TIME OF THE TRANSFER
17 FOR PURPOSES OF THIS SUBSECTION (2).

18 (D) FOR PURPOSES OF THIS SUBSECTION (2), STOCK OF AN INSURANCE SUBSIDIARY CONSTITUTES PROPERTY
19 USED IN THE ACTIVE TRADE OR BUSINESS OF THE INSURER.

20 (E) THIS SUBSECTION (2) DOES NOT APPLY TO ANY PROPERTY DESCRIBED BY SECTION 367(A)(3)(B) OF THE
21 INTERNAL REVENUE CODE, 26 U.S.C. 367(A)(3)(B).

22 (F) IF THE DEFERRED GAIN REQUIRED TO BE TAKEN INTO ACCOUNT UNDER THIS SUBSECTION (2) IS BUSINESS
23 INCOME AS DEFINED IN 15-31-302, THE GAIN MUST BE APPORTIONED USING THE APPORTIONMENT PERCENTAGE FOR THE
24 TAX YEAR THAT THE GAIN IS REQUIRED TO BE TAKEN INTO ACCOUNT UNDER THIS SUBSECTION (2). EXCEPT AS PROVIDED
25 IN 15-31-312 AND RULES ADOPTED TO IMPLEMENT THAT SECTION, FOR PURPOSES OF THE SALES FACTOR FOR THAT TAX
26 YEAR, THE TRANSACTION GIVING RISE TO THAT GAIN MUST BE TREATED AS A SALE OCCURRING IN THE TAX YEAR THE GAIN
27 IS TAKEN INTO ACCOUNT. THE AMOUNT OF ANY GAIN REQUIRED TO BE RECOGNIZED UNDER THIS SUBSECTION (2) UPON
28 ANY DISPOSITION DESCRIBED IN THIS SUBSECTION (2) MAY NOT EXCEED THE LESSER OF THE DEFERRED GAIN OR THE GAIN
29 REALIZED IN THE TRANSACTION IN WHICH GAIN IS REQUIRED TO BE RECOGNIZED UNDER THIS SUBSECTION (2).

30 (G) FOR PURPOSES OF COMPUTING THE AMOUNT OF GAIN REQUIRED TO BE RECOGNIZED UNDER THIS

1 SUBSECTION (2), APPROPRIATE ADJUSTMENTS MAY BE MADE, PURSUANT TO RULES ADOPTED BY THE DEPARTMENT, TO
2 THE BASIS OF STOCK TO REFLECT THE DISALLOWANCE OF ANY EXPENSES UNDER [SECTION 4(2)].

3 (3) THE DEPARTMENT MAY ADOPT RULES PROVIDING FOR AN ANNUAL REPORTING REQUIREMENT IN THE FORM
4 OF A STATEMENT OR OTHER FORM, TO BE ATTACHED TO THE TRANSFEROR TAXPAYER'S RETURN, REGARDING THE
5 CURRENT OWNERSHIP OF ANY PROPERTY FOR WHICH ANY GAINS WERE PREVIOUSLY DEFERRED PURSUANT TO SUBSECTION
6 (2). IF THE TRANSFEROR TAXPAYER FAILS TO PROVIDE INFORMATION REQUIRED BY THE DEPARTMENT, THE DEPARTMENT
7 MAY, IN LIEU OF THE YEAR IN SUBSECTION (2)(F), REQUIRE THAT THE TRANSFEROR TAXPAYER TAKE THOSE GAINS INTO
8 ACCOUNT IN THE FIRST TAX YEAR IN WHICH THE CURRENT OWNERSHIP OF THE PROPERTY IS NOT REPORTED UNLESS THE
9 PROPERTY IS STILL OWNED BY THE TRANSFEREE AND THE FAILURE TO PROVIDE THE INFORMATION WAS DUE TO
10 REASONABLE CAUSE AND NOT WILLFUL NEGLIGENCE. IF A TAXPAYER FAILS TO SATISFY THE REPORTING REQUIREMENTS OF
11 THIS SUBSECTION, THEN A NOTICE OF PROPOSED DEFICIENCY ASSESSMENT RESULTING FROM ADJUSTMENTS
12 ATTRIBUTABLE TO GAINS PREVIOUSLY DEFERRED PURSUANT TO SUBSECTION (2), WITH RESPECT TO WHICH THE
13 REPORTING REQUIREMENTS WERE NOT SATISFIED, MAY BE MAILED TO THE TAXPAYER WITHIN 4 YEARS FROM THE DATE
14 ON WHICH THE REPORTING REQUIREMENTS ARE SATISFIED BY THE TAXPAYER.

15 (4) UNLESS OTHERWISE PROVIDED BY RULES ADOPTED BY THE DEPARTMENT, A TRANSFER BY A TAXPAYER OF
16 AN INTEREST IN A PARTNERSHIP TO AN INSURER IN A TRANSACTION DESCRIBED IN SUBSECTION (1)(A) MUST BE TREATED
17 AS A TRANSFER TO THAT INSURER OF THE TAXPAYER'S PRO RATA SHARE OF THE ASSETS OF THE PARTNERSHIP.

18 (5) (A) A DISTRIBUTION DESCRIBED BY SECTION 355 OF THE INTERNAL REVENUE CODE, 26 U.S.C. 355, OR
19 SECTION 356 OF THE INTERNAL REVENUE CODE, 26 U.S.C. 356, AS IT RELATES TO SECTION 355 OF THE INTERNAL
20 REVENUE CODE, MUST BE TREATED AS AN EXCHANGE UNDER THIS SECTION, WHETHER OR NOT THE DISTRIBUTION IS AN
21 EXCHANGE. THIS SUBSECTION (5)(A) DOES NOT APPLY TO A DISTRIBUTION IN WHICH:

22 (I) THE DISTRIBUTING CORPORATION IS AN INSURER; OR

23 (II) THE DISTRIBUTEE IS A PERSON OTHER THAN AN INSURER.

24 (B) FOR A DISTRIBUTION DESCRIBED IN SECTION 355 OF THE INTERNAL REVENUE CODE, 26 U.S.C. 355, OR
25 SECTION 356 OF THE INTERNAL REVENUE CODE, 26 U.S.C. 356, AS IT RELATES TO SECTION 355 OF THE INTERNAL
26 REVENUE CODE, BY A TAXPAYER TO AN INSURER, THE DEPARTMENT SHALL ADOPT RULES REGARDING THE RECOGNITION
27 OF GAIN TO PREVENT THE REMOVAL OF GAIN INHERENT IN PROPERTY AT THE TIME OF A TRANSFER FROM TAXATION.

28 (6) FOR PURPOSES OF THIS SECTION, A TRANSFER OF PROPERTY TO AN INSURER AS A CONTRIBUTION TO CAPITAL
29 OF THAT INSURER BY ONE OR MORE PERSONS WHO, IMMEDIATELY AFTER THE TRANSFER, OWN, WITHIN THE MEANING OF
30 SECTION 318 OF THE INTERNAL REVENUE CODE, 26 U.S.C. 318, STOCK POSSESSING AT LEAST 80% OF THE TOTAL

1 COMBINED VOTING POWER OF ALL CLASSES OF STOCK OF THAT INSURER THAT ARE ENTITLED TO VOTE MUST BE TREATED
 2 AS AN EXCHANGE OF THAT PROPERTY FOR STOCK OF THE INSURER EQUAL IN VALUE TO THE FAIR MARKET VALUE OF THE
 3 PROPERTY TRANSFERRED.

4 (7) (A) IN THE CASE OF ANY LIQUIDATION TO WHICH SECTION 332 OF THE INTERNAL REVENUE CODE, 26 U.S.C.
 5 332, APPLIES, UNLESS OTHERWISE PROVIDED IN RULES ADOPTED BY THE DEPARTMENT:

6 (I) SECTIONS 337(A) AND (B)(1) OF THE INTERNAL REVENUE CODE, 26 U.S.C. 337(A) AND (B)(1), DO NOT APPLY
 7 IF THE 80% DISTRIBUTE IS AN INSURER; AND

8 (II) IF THE DISTRIBUTOR IS AN INSURER, THE DISTRIBUTE SHALL TREAT THE DISTRIBUTION AS A DISTRIBUTION
 9 FROM THE INSURER'S EARNINGS AND PROFITS.

10 (B) FOR PURPOSES OF SUBSECTION (7)(A)(II), THE DISTRIBUTION FROM EARNINGS AND PROFITS MUST BE
 11 TREATED AS A DIVIDEND ELIGIBLE FOR A DEDUCTION, TO THE EXTENT OTHERWISE PROVIDED IN [SECTION 3], AS IF IT WAS
 12 ACTUALLY DISTRIBUTED AS A DIVIDEND.

13 (8) (A) UPON AN ADEQUATE SHOWING BY A TAXPAYER THAT A TRANSACTION REFERRED TO IN SUBSECTION (1)
 14 OR (7) WOULD NOT VIOLATE THE PURPOSES OF THIS SECTION TO PREVENT THE REMOVAL OF GAIN INHERENT IN PROPERTY
 15 AT THE TIME OF A TRANSFER FROM TAXATION UNDER THIS SECTION, THE DEPARTMENT MAY GRANT RELIEF FROM THE
 16 APPLICATION OF THIS SECTION.

17 (B) IN A PROCEEDING CONTESTING THE DEPARTMENT'S ACTIONS UNDER THIS SECTION, RELIEF MAY BE GRANTED
 18 A TAXPAYER ONLY UPON A SPECIFIC FINDING BY THE STATE TAX APPEAL BOARD OR DISTRICT COURT THAT THE CONTESTED
 19 TRANSFER DID NOT REMOVE GAIN INHERENT IN PROPERTY AT THE TIME OF TRANSFER FROM TAXATION UNDER THIS
 20 SECTION.

21
 22 NEW SECTION. SECTION 6. INCLUDABLE IN GROSS INCOME. (1) (A) THE DEPARTMENT MAY INCLUDE IN THE
 23 GROSS INCOME OF THE TAXPAYER OR A MEMBER OF THE TAXPAYER'S COMBINED REPORTING GROUP IN THAT TAX YEAR
 24 THE TAXPAYER'S PRO RATA SHARE OR THE PRO RATA SHARE OF A MEMBER OF THE TAXPAYER'S COMBINED REPORTING
 25 GROUP OF ANY OF THOSE INSURERS' CURRENT EARNINGS AND PROFITS IN THAT TAX YEAR, BUT NOT TO EXCEED AN
 26 AMOUNT EQUAL TO THE SPECIFIC INSURER'S NET INCOME ATTRIBUTABLE TO INVESTMENT INCOME FOR THAT YEAR MINUS
 27 THAT INSURER'S NET WRITTEN PREMIUMS RECEIVED IN THAT SAME TAX YEAR, IF:

28 (I) FOR ANY TAX YEAR, AN INSURER IS A MEMBER OF A TAXPAYER'S COMMONLY CONTROLLED GROUP;

29 (II) THE RATIO OF THE 5-YEAR AVERAGE NET WRITTEN PREMIUMS TO THE 5-YEAR AVERAGE TOTAL INCOME OF ALL
 30 INSURERS IN THE COMMONLY CONTROLLED GROUP IS EQUAL TO OR LESS THAN 0.10; AND

1 (III) THE ACCUMULATION OF EARNINGS AND PROFITS OF THE INSURERS IN THE COMMONLY CONTROLLED GROUP
 2 HAD A SUBSTANTIAL PURPOSE OF AVOIDANCE OF TAXES ON, ACCORDING TO, OR MEASURED BY INCOME OF THIS STATE
 3 OR ANY OTHER STATE.

4 (B) THE AMOUNT INCLUDED IN GROSS INCOME PURSUANT TO SUBSECTION (1)(A) MUST BE TREATED AS A
 5 DIVIDEND RECEIVED FROM AN INSURANCE COMPANY DURING THE TAX YEAR, AND TO THE EXTENT APPLICABLE, [SECTION
 6 3] APPLIES TO THAT AMOUNT.

7 (2) TO THE EXTENT THAT THE AMOUNTS ARE INCLUDED PURSUANT TO SUBSECTION (1) IN THE GROSS INCOME
 8 OF A TAXPAYER OR A MEMBER OF THE TAXPAYER'S COMBINED REPORTING GROUP, THOSE AMOUNTS MAY NOT AGAIN BE
 9 CONSIDERED AS INVESTMENT INCOME IN THE APPLICATION OF THE RATIO IN SUBSECTION (1)(A)(II).

10 (3) (A) THE AMOUNTS INCLUDED IN GROSS INCOME UNDER SUBSECTION (1) MAY NOT AGAIN BE INCLUDED IN
 11 GROSS INCOME WHEN SUBSEQUENT DISTRIBUTIONS ARE MADE TO:

12 (I) THE TAXPAYER OR A MEMBER OF THE TAXPAYER'S COMBINED REPORTING GROUP;

13 (II) ANOTHER TAXPAYER THAT ACQUIRES AN INTEREST IN THE STOCK OF THE TAXPAYER OR A MEMBER OF THE
 14 TAXPAYER'S COMBINED REPORTING GROUP WITH RESPECT TO WHICH SUBSECTION (1) WAS APPLIED; OR

15 (III) ANY SUCCESSOR OR ASSIGN OF THE RESPECTIVE TAXPAYERS OR A MEMBER OF THE TAXPAYER'S COMBINED
 16 REPORTING GROUP DESCRIBED IN THIS SUBSECTION (3).

17 (B) FOR PURPOSES OF APPLYING THIS SUBSECTION (3), DISTRIBUTIONS FROM AN INSURER ARE CONSIDERED
 18 FIRST MADE FROM AMOUNTS INCLUDED UNDER SUBSECTION (1).

19 (4) FOR PURPOSES OF THIS SECTION, THE TERMS "NET WRITTEN PREMIUMS", "5-YEAR AVERAGE NET WRITTEN
 20 PREMIUMS", AND "5-YEAR AVERAGE TOTAL INCOME" HAVE THE SAME MEANING AS APPLICABLE FOR [SECTION 3]. WHETHER
 21 OR NOT A DIVIDEND IS ACTUALLY RECEIVED FROM ANY INSURER MEMBER OF THE TAXPAYER'S COMMONLY CONTROLLED
 22 GROUP IN THAT TAX YEAR.

23 (5) FOR THE PURPOSES OF THIS SECTION, THE TAXPAYER'S PRO RATA SHARE OF THE CURRENT EARNINGS AND
 24 PROFITS OF AN INSURER MEMBER OF A COMMONLY CONTROLLED GROUP IS THE AMOUNT THAT WOULD HAVE BEEN
 25 RECEIVED AS A DIVIDEND BY THE TAXPAYER OR A MEMBER OF THE TAXPAYER'S COMBINED REPORTING GROUP IF:

26 (A) THE INSURER HAD DIRECTLY DISTRIBUTED ITS CURRENT EARNINGS AND PROFITS WITH RESPECT TO ITS STOCK
 27 HELD BY THE TAXPAYER OR A MEMBER OF THE TAXPAYER'S COMBINED REPORTING GROUP; AND

28 (B) THE INSURER HOLDS THE STOCK OF ANOTHER INSURER AND ALL OTHER INSURER MEMBERS OF THE
 29 TAXPAYER'S COMMONLY CONTROLLED GROUP HAD DISTRIBUTED THE SAME CURRENT EARNINGS AND PROFITS WITH
 30 RESPECT TO THEIR STOCK, IN THE SAME TAX YEAR, UNTIL AMOUNTS WERE RECEIVED AS A DIVIDEND BY THE TAXPAYER OR

1 A MEMBER OF THE TAXPAYER'S COMBINED REPORTING GROUP FROM AN INSURER MEMBER OF THE COMMONLY
 2 CONTROLLED GROUP.

3 (6) IN THE APPLICATION OF THIS SECTION, AMOUNTS TREATED AS A DIVIDEND RECEIVED BY A PARTNERSHIP ARE
 4 CONSIDERED A DIVIDEND RECEIVED BY EACH PARTNER THAT IS A MEMBER OF THE COMMONLY CONTROLLED GROUP,
 5 EITHER DIRECTLY OR THROUGH A SERIES OF TIERED PARTNERSHIPS.

6 (7) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO AN INSURER INVOLVED IN A PROCEEDING UNDER THE
 7 INSURERS SUPERVISION, REHABILITATION, AND LIQUIDATION ACT, TITLE 33, CHAPTER 2, PART 13, OR ANY SIMILAR
 8 PROCEEDING BROUGHT BY ANY OTHER STATE INSURANCE COMMISSIONER.

9

10 NEW SECTION. SECTION 7. LEGITIMATE BUSINESS PURPOSE. (1) IF A TAXPAYER'S RATIO OF THE 5-YEAR
 11 AVERAGE NET WRITTEN PREMIUMS FOR ALL INSURANCE COMPANIES IN A COMMONLY CONTROLLED GROUP TO THE 5-YEAR
 12 AVERAGE TOTAL INCOME FOR ALL INSURANCE COMPANIES IN THE COMMONLY CONTROLLED GROUP FOR THE TAX YEAR IS
 13 GREATER THAN OR EQUAL TO 60%, AS DETERMINED UNDER [SECTION 3], THEN THE PROVISIONS OF [SECTIONS 2 THROUGH
 14 8] DO NOT APPLY.

15 (2) IF A TAXPAYER'S RATIO OF THE 5-YEAR AVERAGE NET WRITTEN PREMIUMS FOR ALL INSURANCE COMPANIES
 16 IN A COMMONLY CONTROLLED GROUP TO THE 5-YEAR AVERAGE TOTAL INCOME FOR ALL INSURANCE COMPANIES IN THE
 17 COMMONLY CONTROLLED GROUP FOR THE TAX YEAR IS LESS THAN 60%, AS DETERMINED UNDER [SECTION 3], AND UPON
 18 AN ADEQUATE SHOWING BY A TAXPAYER THAT A TRANSACTION REFERRED TO IN [SECTIONS 3 THROUGH 6] WAS ENTERED
 19 INTO WITH A LEGITIMATE BUSINESS PURPOSE, THE DEPARTMENT MAY GRANT RELIEF FROM THE APPLICATION OF [SECTIONS
 20 2 THROUGH 8].

21

22 NEW SECTION. SECTION 8. RULEMAKING AUTHORITY. THE DEPARTMENT MAY ADOPT RULES THAT IT
 23 CONSIDERS NECESSARY TO IMPLEMENT AND ADMINISTER THE PROVISIONS OF [SECTIONS 2 THROUGH 7].

24

25 NEW SECTION. SECTION 9. DEFINITIONS. AS USED IN [SECTIONS 10 THROUGH 12], THE FOLLOWING
 26 DEFINITIONS APPLY:

27 (1) "MONTANA PROPERTY TAXES" MEANS THE AD VALOREM PROPERTY TAXES IMPOSED ON PROPERTY CLASSIFIED
 28 UNDER 15-6-134 THAT IS A SINGLE-FAMILY DWELLING UNIT, UNIT OF A MULTIPLE-UNIT DWELLING, TRAILER,
 29 MANUFACTURED HOME, OR MOBILE HOME AND AS MUCH OF THE SURROUNDING LAND, NOT EXCEEDING 1 ACRE, AS IS
 30 REASONABLY NECESSARY FOR ITS USE AS A DWELLING AND THAT WERE ASSESSED IN THE SPECIFIED CALENDAR YEAR.

1 (2) "OWNED" INCLUDES PURCHASING UNDER A CONTRACT FOR DEED AND BEING THE GRANTOR OR GRANTORS
2 UNDER A TRUST INDENTURE.

3
4 NEW SECTION. SECTION 10. PROPERTY TAX REFUND -- MANNER OF CLAIMING -- LIMITATIONS. (1) (A) A
5 REFUND OF UP TO \$400 OF 2006 MONTANA PROPERTY TAXES ASSESSED TO AND PAID BY A TAXPAYER OR TAXPAYERS
6 ON THE RESIDENCE THAT THEY OWNED AND OCCUPIED AS THEIR PRINCIPAL RESIDENCE FOR AT LEAST 7 MONTHS DURING
7 2006 MAY BE CLAIMED AS PROVIDED IN SUBSECTION (2), SUBJECT TO THE LIMITATIONS PROVIDED IN SUBSECTION (3).

8 (B) IF THE 2006 MONTANA PROPERTY TAXES ASSESSED TO AND PAID BY A TAXPAYER OR TAXPAYERS ON THE
9 RESIDENCE THEY OWNED AND OCCUPIED AS THEIR PRINCIPAL RESIDENCE FOR AT LEAST 7 MONTHS DURING 2006 WERE
10 MORE THAN \$25 AND LESS THAN \$400, A REFUND OF THE 2005 MONTANA PROPERTY TAXES ASSESSED TO AND PAID BY
11 THE TAXPAYER OR TAXPAYERS ON THE PRINCIPAL RESIDENCE, IF THEY OWNED AND OCCUPIED IT AS THEIR PRINCIPAL
12 RESIDENCE FOR AT LEAST 7 MONTHS DURING 2005, MAY BE CLAIMED AS PROVIDED IN SUBSECTION (2), SUBJECT TO THE
13 LIMITATIONS PROVIDED IN SUBSECTION (3), IN AN AMOUNT THAT TOGETHER WITH THE REFUND UNDER SUBSECTION (1)(A)
14 DOES NOT EXCEED \$400.

15 (C) IF THE 2006 MONTANA PROPERTY TAXES ASSESSED TO AND PAID BY A TAXPAYER OR TAXPAYERS ON THE
16 RESIDENCE THEY OWNED AND OCCUPIED AS THEIR PRINCIPAL RESIDENCE FOR AT LEAST 7 MONTHS DURING 2006,
17 TOGETHER WITH THE 2005 MONTANA PROPERTY TAXES ALLOWED AS A REFUND UNDER SUBSECTION (1)(B), WERE MORE
18 THAN \$50 AND LESS THAN \$400, A REFUND OF THE 2004 MONTANA PROPERTY TAXES ASSESSED TO AND PAID BY THE
19 TAXPAYER OR TAXPAYERS ON THE PRINCIPAL RESIDENCE, IF THEY OWNED AND OCCUPIED IT AS THEIR PRINCIPAL
20 RESIDENCE FOR AT LEAST 7 MONTHS DURING 2004, MAY BE CLAIMED AS PROVIDED IN SUBSECTION (2), SUBJECT TO THE
21 LIMITATIONS PROVIDED IN SUBSECTION (3), IN AN AMOUNT THAT TOGETHER WITH THE REFUND UNDER SUBSECTIONS (1)(A)
22 AND (1)(B) DOES NOT EXCEED \$400.

23 (2) (A) SUBJECT TO SUBSECTION (2)(B), THE CLAIM FOR REFUND, IN THE FORM THAT THE DEPARTMENT
24 PRESCRIBES, MUST BE EXECUTED BY EACH TAXPAYER UNDER PENALTY OF FALSE SWEARING AND MUST INCLUDE THE
25 INFORMATION THAT THE DEPARTMENT REQUIRES.

26 (B) THE PERSONAL REPRESENTATIVE OF THE ESTATE OF A DECEASED TAXPAYER MAY EXECUTE AND FILE THE
27 CLAIM FOR REFUND ON BEHALF OF A DECEASED TAXPAYER WHO QUALIFIES FOR THE REFUND.

28 (3) THE CLAIM FOR A REFUND IS SUBJECT TO THE FOLLOWING LIMITATIONS:

29 (A) THE CLAIM MUST BE FILED WITH THE DEPARTMENT OF REVENUE ON OR BEFORE DECEMBER 31, 2007, UNLESS
30 THE DEPARTMENT, FOR GOOD CAUSE SHOWN, GRANTS A REASONABLE EXTENSION OF TIME FOR FILING.

1 (B) ONLY ONE CLAIM MAY BE MADE WITH RESPECT TO ANY PROPERTY.

2 (C) THE CLAIMS BY A TAXPAYER OR TAXPAYERS FOR 2006, 2005, AND 2004 MUST BE FOR THE SAME PROPERTY.

3
4 NEW SECTION. SECTION 11. PROPERTY TAX REFUND -- PENALTY FOR FALSE OR FRAUDULENT CLAIM. A
5 PERSON WHO FILES A FALSE OR FRAUDULENT CLAIM FOR A PROPERTY TAX REFUND [SECTION 10] OR A RENTER'S CREDIT
6 UNDER [SECTION 12] IS SUBJECT TO CRIMINAL PROSECUTION UNDER THE PROVISIONS OF 45-7-202. IF A FALSE OR
7 FRAUDULENT CLAIM HAS BEEN PAID, THE AMOUNT PAID MAY BE RECOVERED AS ANY OTHER TAX OWED THE STATE,
8 TOGETHER WITH A PENALTY OF 25% AND INTEREST ON THE AMOUNT OF THE REFUND AT THE RATE OF 12% A YEAR, UNTIL
9 PAID.

10
11 NEW SECTION. SECTION 12. RENTER'S TAX CREDIT -- ELIGIBILITY -- REQUIREMENTS -- LIMITATIONS --
12 REFUND. (1) EXCEPT AS PROVIDED IN SUBSECTIONS (6) AND (7) AND SUBJECT TO THE PROVISIONS OF THIS SECTION, AN
13 INDIVIDUAL REQUIRED TO FILE A RETURN UNDER CHAPTER 30 IS ALLOWED A RENTER'S CREDIT IN AN AMOUNT EQUAL TO
14 3% OF THE GROSS RENT PAID BY THE TAXPAYER IN TAX YEAR 2006 FOR A DWELLING OR DWELLINGS THE TAXPAYER
15 RENTED AS THE TAXPAYER'S PRINCIPAL RESIDENCE FOR AT LEAST 7 MONTHS DURING 2006. THE MAXIMUM CREDIT
16 ALLOWED UNDER THIS SECTION IS \$120.

17 (2) IN ORDER TO BE ELIGIBLE TO MAKE A CLAIM FOR A CREDIT UNDER THIS SECTION, THE TAXPAYER MUST HAVE:

18 (A) RESIDED IN MONTANA FOR AT LEAST 9 MONTHS OF 2006; AND

19 (B) OCCUPIED ONE OR MORE DWELLINGS IN THE STATE AS A RENTER OR LESSEE FOR AT LEAST 7 MONTHS OF
20 2006.

21 (3) A TAXPAYER IS NOT DISQUALIFIED FROM CLAIMING THE CREDIT UNDER THIS SECTION BECAUSE OF A CHANGE
22 OF RESIDENCE DURING 2006 IF THE TAXPAYER OCCUPIED ONE OR MORE DWELLINGS IN MONTANA AS A RENTER OR LESSEE
23 FOR AT LEAST 7 MONTHS DURING 2006.

24 (4) (A) A RECEIPT OR OTHER EVIDENCE OF GROSS RENT PAID MUST BE FILED WITH THE CLAIM FOR A CREDIT. IN
25 ADDITION, EACH TAXPAYER SHALL, AT THE REQUEST OF THE DEPARTMENT, SUPPLY ALL ADDITIONAL INFORMATION TO
26 SUPPORT THE CLAIM.

27 (B) IF TWO OR MORE INDIVIDUALS ARE SHARING A DWELLING, EACH INDIVIDUAL MAY CLAIM THE CREDIT BASED
28 ON THE PROPORTIONAL SHARE THAT THE INDIVIDUAL PAYS OF THE GROSS RENT.

29 (5) IF THE AMOUNT OF CREDIT EXCEEDS THE TAXPAYERS'S TAX LIABILITY UNDER THIS CHAPTER, THE AMOUNT
30 OF THE EXCESS MUST BE REFUNDED TO THE TAXPAYER.

1 (6) A CLAIM FOR A CREDIT IS NOT ALLOWED UNDER THIS SECTION IF THE INDIVIDUAL'S ADJUSTED GROSS INCOME
 2 IS GREATER THAN \$45,000. FOR MARRIED TAXPAYER'S FILING JOINTLY OR SEPARATELY ON THE SAME FORM THE CREDIT
 3 IS NOT ALLOWED UNDER THIS SECTION IF THE COMBINED ADJUSTED GROSS INCOME IS GREATER THAN \$45,000.

4 (7) A TAXPAYER WHO RECEIVES A RESIDENTIAL PROPERTY TAX CREDIT FOR THE ELDERLY FOR TAX YEAR 2006
 5 UNDER 15-30-171 THROUGH 15-30-179 MAY NOT CLAIM THE CREDIT UNDER THIS SECTION.

6 (8) THE CLAIM FOR THE RENTER'S CREDIT UNDER THIS SECTION SHALL BE MADE IN THE SAME MANNER AND TIME
 7 AND SUBJECT TO THE SAME CONDITIONS AS PRESCRIBED FOR THE PROPERTY TAX REFUND UNDER [SECTION 10(2), (3)(A),
 8 AND (3)(B)].

9 (9) FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING DEFINITIONS APPLY:

10 (A) "DWELLING" MEANS:

11 (I) A SINGLE-FAMILY DWELLING OR UNIT OF A MULTIPLE-UNIT DWELLING AND AS MUCH OF THE SURROUNDING
 12 LAND, BUT NOT IN EXCESS OF 1 ACRE, AS IS REASONABLY NECESSARY FOR ITS USE AS A DWELLING;

13 (II) A SINGLE-FAMILY DWELLING OR UNIT OF A MULTIPLE-UNIT DWELLING THAT IS RENTED FROM A COUNTY OR
 14 MUNICIPAL HOUSING AUTHORITY AS PROVIDED IN TITLE 7, CHAPTER 15; OR

15 (III) A SINGLE-FAMILY DWELLING OR UNIT OF A MULTIPLE-UNIT DWELLING IN WHICH ANY PORTION OF THE
 16 INDIVIDUAL'S RENT PAYMENT IS DERIVED FROM RENT EQUIVALENT PAYMENTS OR FROM A PUBLIC RENT OR TAX SUBSIDY
 17 PROGRAM.

18 (B) "GROSS RENT" HAS THE MEANING PROVIDED IN 15-30-171.

19 (C) "RENT EQUIVALENT" MEANS A RENTAL PAYMENT PAID BY A GOVERNMENTAL AGENCY TO A LESSOR OR
 20 LANDLORD.

21
 22 NEW SECTION. SECTION 13. SHORT TITLE. [SECTIONS 13 THROUGH 24] MAY BE CITED AS THE "MINERAL
 23 ROYALTY BACKUP WITHHOLDING ACT".

24
 25 NEW SECTION. SECTION 14. DEFINITIONS. AS USED IN [SECTIONS 13 THROUGH 24], THE FOLLOWING
 26 DEFINITIONS APPLY:

27 (1) "MINERAL" HAS THE SAME MEANING AS PROVIDED IN 15-38-103.

28 (2) "PUBLICLY TRADED PARTNERSHIP" MEANS A PUBLICLY TRADED PARTNERSHIP AS DEFINED IN SECTION 7704
 29 OF THE INTERNAL REVENUE CODE, 26 U.S.C. 7704, THAT IS NOT TREATED AS A CORPORATION.

30 (3) "REMITTOR" MEANS AN INDIVIDUAL, ENTITY, OR TRUST THAT MAKES ROYALTY PAYMENTS TO ROYALTY

1 OWNERS.

2 (4) "ROYALTY OWNER" MEANS A PERSON OR ENTITY ENTITLED TO RECEIVE PERIODIC PAYMENTS FOR A
 3 NONWORKING INTEREST IN THE PRODUCTION OF OIL OR GAS OR IN THE SEVERANCE OF OTHER MINERALS FROM THE
 4 MINERAL ESTATE.

5
 6 NEW SECTION. SECTION 15. WITHHOLDING REQUIRED ON MINERAL ROYALTY PAYMENTS. EXCEPT AS
 7 PROVIDED IN [SECTION 16], EACH REMITTOR SHALL WITHHOLD FROM EACH ROYALTY PAYMENT MADE TO A ROYALTY OWNER
 8 AN AMOUNT EQUAL TO 6% OF THE NET AMOUNT PAYABLE TO THE ROYALTY OWNER.

9
 10 NEW SECTION. SECTION 16. WITHHOLDING -- NO APPLICATION UNDER CERTAIN CONDITIONS. (1) THE
 11 PROVISIONS OF [SECTIONS 13 THROUGH 24] DO NOT APPLY TO ROYALTY PAYMENTS MADE TO A ROYALTY OWNER IF THE
 12 ROYALTY OWNER IS:

13 (A) THE UNITED STATES OR AN AGENCY OF THE FEDERAL GOVERNMENT, THIS STATE OR A POLITICAL SUBDIVISION
 14 OF THIS STATE, OR ANOTHER STATE OR A POLITICAL SUBDIVISION OF ANOTHER STATE;

15 (B) A FEDERALLY RECOGNIZED INDIAN TRIBE WITH RESPECT TO ON-RESERVATION OIL AND GAS PRODUCTION
 16 PURSUANT TO A LEASE ENTERED INTO UNDER THE INDIAN MINERAL LEASING ACT OF 1938, 25 U.S.C. 396A THROUGH
 17 396G;

18 (C) THE UNITED STATES AS TRUSTEE FOR INDIVIDUAL INDIANS;

19 (D) A PUBLICLY TRADED PARTNERSHIP;

20 (E) AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER 15-31-102; OR

21 (F) THE SAME PERSON OR ENTITY AS THE REMITTOR.

22 (2) (A) THE PROVISIONS OF [SECTIONS 13 THROUGH 24] DO NOT APPLY TO A REMITTOR THAT PRODUCES LESS
 23 THAN 100,000 BARRELS OF OIL AND LESS THAN 500 MILLION CUBIC FEET OF GAS ANNUALLY. THE DEPARTMENT SHALL
 24 DETERMINE A REMITTOR'S ANNUAL PRODUCTION OF OIL AND GAS BASED UPON A 3-YEAR ROLLING AVERAGE OF THE
 25 REMITTOR'S ANNUAL PRODUCTION AS REPORTED BY THE REMITTOR TO THE MONTANA BOARD OF OIL AND GAS
 26 CONSERVATION.

27 (B) EACH PRODUCER THAT IS EXEMPTED FROM WITHHOLDING UNDER SUBSECTION (2)(A) SHALL MAKE AN ANNUAL
 28 RETURN TO REPORT ROYALTY PAYMENTS THAT EXCEED THE DOLLAR AMOUNTS IN SUBSECTION (3). THE RETURN MUST
 29 BE MADE UNDER RULES ADOPTED BY THE DEPARTMENT AND BE AS NEARLY IDENTICAL AS POSSIBLE TO FEDERAL RULES
 30 FOR INTERNAL REVENUE SERVICE FORM 1099 UNDER SECTION 6041, ET SEQ., OF THE INTERNAL REVENUE CODE, 26

1 U.S.C. 6041, ET SEQ.

2 (C) EACH YEAR, A PUBLICLY TRADED PARTNERSHIP THAT IS EXEMPT FROM WITHHOLDING UNDER SUBSECTION
 3 (1)(D) SHALL TRANSMIT TO THE DEPARTMENT, IN AN ELECTRONIC FORMAT APPROVED BY THE DEPARTMENT, EACH
 4 PARTNER'S U.S. DEPARTMENT OF THE TREASURY SCHEDULE K-1, FORM 1065 OR 1065-B, AS APPLICABLE, FILED
 5 ELECTRONICALLY FOR THE YEAR WITH THE INTERNAL REVENUE SERVICE.

6 (D) A ROYALTY OWNER THAT IS AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER 15-31-102 SHALL
 7 REPORT TO THE REMITTOR AND DEPARTMENT UNDER OATH, ON A FORM PRESCRIBED BY THE DEPARTMENT, ALL
 8 INFORMATION NECESSARY TO ESTABLISH THAT THE REMITTOR IS NOT REQUIRED TO WITHHOLD UNDER [SECTION 15].

9 (3) IF THE ROYALTY PAYMENT MADE TO A ROYALTY OWNER SUBJECT TO WITHHOLDING UNDER THE PROVISIONS
 10 OF [SECTIONS 13 THROUGH 24] IS LESS THAN \$166 FOR THE CURRENT WITHHOLDING PERIOD OR IS LESS THAN \$2,000
 11 IF THE PAYMENT IS ANNUALIZED, THEN THE DEPARTMENT MAY GRANT A REMITTOR'S REQUEST TO FOREGO WITHHOLDING
 12 THE TAX FROM THE ROYALTY PAYMENT MADE TO THAT ROYALTY OWNER FOR THE CURRENT WITHHOLDING PERIOD OR, IF
 13 APPLICABLE, THE ROYALTY PAYMENTS FOR THE ANNUAL PERIOD.

14 (4) THE DEPARTMENT MAY, BY RULE, ESTABLISH MINIMUM ROYALTY AMOUNTS SUBJECT TO WITHHOLDING UNDER
 15 THE PROVISIONS OF [SECTIONS 13 THROUGH 24], OTHER THAN FOR OIL AND GAS PRODUCTION, IF THE DEPARTMENT
 16 DETERMINES THAT THE WITHHOLDING AGAINST THE MINIMAL AMOUNT OF ROYALTIES IS INEFFICIENT.

17
 18 **NEW SECTION. SECTION 17. REMITTOR LIABLE FOR WITHHOLDING TAXES AND STATEMENTS -- LIABILITY**
 19 **MITIGATION -- SUFFICIENCY OF MAILING ADDRESS. (1) EACH REMITTOR IS LIABLE FOR THE PAYMENT REQUIRED BY**
 20 **[SECTION 18], THE AMOUNT REQUIRED TO BE DEDUCTED AND WITHHELD UNDER [SECTIONS 13 THROUGH 24], AND THE**
 21 **ANNUAL STATEMENTS REQUIRED BY [SECTIONS 20 AND 21]. THE PAYMENTS REQUIRED BY [SECTION 18] AND THE AMOUNTS**
 22 **REQUIRED TO BE DEDUCTED AND WITHHELD, PLUS PENALTY AND INTEREST DUE, ARE A TAX. WITH RESPECT TO THE TAX,**
 23 **THE REMITTOR IS THE TAXPAYER.**

24 (2) THE OFFICER OF A CORPORATION WHOSE RESPONSIBILITY IT IS TO COLLECT, TRUTHFULLY ACCOUNT FOR,
 25 AND PAY TO THE STATE THE AMOUNTS WITHHELD FROM MINERAL ROYALTY PAYMENTS AND WHO FAILS TO PAY THE
 26 WITHHOLDINGS IS LIABLE TO THE STATE FOR THE AMOUNTS WITHHELD AND THE PENALTY AND INTEREST DUE ON THE
 27 AMOUNTS.

28 (3) (A) SUBJECT TO SUBSECTIONS (3)(B) AND (6), EACH OFFICER OF THE CORPORATION IS INDIVIDUALLY LIABLE,
 29 ALONG WITH THE CORPORATION, FOR FILING STATEMENTS, TO THE EXTENT THAT THE OFFICER HAS ACCESS TO THE
 30 REQUISITE RECORDS, AND FOR UNPAID TAXES, PENALTIES, AND INTEREST UPON A DETERMINATION THAT THE OFFICER:

- 1 (i) POSSESSED THE RESPONSIBILITY TO FILE STATEMENTS AND PAY TAXES ON BEHALF OF THE CORPORATION; AND
2 (ii) POSSESSED THE RESPONSIBILITY ON BEHALF OF THE CORPORATION FOR DIRECTING THE FILING OF TAX
3 STATEMENTS OR THE PAYMENT OF OTHER CORPORATE OBLIGATIONS AND EXERCISED THAT RESPONSIBILITY, RESULTING
4 IN THE CORPORATION'S FAILURE TO FILE STATEMENTS REQUIRED BY [SECTIONS 13 THROUGH 24] OR TO PAY TAXES DUE
5 AS REQUIRED BY [SECTIONS 13 THROUGH 24].
- 6 (B) IF A CORPORATE REMITTOR VIOLATES THE PROVISIONS OF [SECTIONS 13 THROUGH 24], THE DEPARTMENT
7 SHALL FIRST APPLY THE PROVISIONS OF [SECTION 23] AGAINST THE CORPORATION. IF THE CORPORATION FAILS TO
8 REMEDY THE VIOLATION, THEN THE DEPARTMENT SHALL APPLY THE PROVISIONS OF [SECTION 23] AGAINST EACH
9 RESPONSIBLE CORPORATE OFFICER AS DETERMINED IN SUBSECTIONS (3)(A) AND (3)(C) OF THIS SECTION.
- 10 (C) IN DETERMINING WHICH CORPORATE OFFICER IS LIABLE, THE DEPARTMENT IS NOT LIMITED TO CONSIDERING
11 THE ELEMENTS SET FORTH IN SUBSECTION (3)(A) TO ESTABLISH INDIVIDUAL LIABILITY AND MAY CONSIDER ANY OTHER
12 AVAILABLE INFORMATION.
- 13 (4) IN THE CASE OF A CORPORATE BANKRUPTCY, THE LIABILITY OF THE INDIVIDUAL REMAINS UNAFFECTED BY THE
14 DISCHARGE OF PENALTY AND INTEREST AGAINST THE CORPORATION. THE INDIVIDUAL REMAINS LIABLE FOR ANY
15 STATEMENTS AND THE AMOUNT OF TAXES, PENALTIES, AND INTEREST UNPAID BY THE CORPORATION.
- 16 (5) SUBJECT TO SUBSECTION (6), FOR THE PURPOSE OF DETERMINING LIABILITY FOR THE FILING OF STATEMENTS
17 AND THE PAYMENT OF TAXES, PENALTIES, AND INTEREST OWED UNDER [SECTIONS 13 THROUGH 24]:
- 18 (A) EACH PARTNER OF A PARTNERSHIP IS JOINTLY AND SEVERALLY LIABLE, ALONG WITH THE PARTNERSHIP, FOR
19 ANY STATEMENTS, TAXES, PENALTIES, AND INTEREST DUE WHILE A PARTNER;
- 20 (B) EACH MEMBER OF A LIMITED LIABILITY COMPANY THAT IS TREATED AS A PARTNERSHIP OR AS A CORPORATION
21 FOR INCOME TAX PURPOSES IS JOINTLY AND SEVERALLY LIABLE, ALONG WITH THE LIMITED LIABILITY COMPANY, FOR ANY
22 STATEMENTS, TAXES, PENALTIES, AND INTEREST DUE WHILE A MEMBER;
- 23 (C) THE MEMBER OF A SINGLE-MEMBER LIMITED LIABILITY COMPANY THAT IS DISREGARDED FOR INCOME TAX
24 PURPOSES IS JOINTLY AND SEVERALLY LIABLE, ALONG WITH THE LIMITED LIABILITY COMPANY, FOR ANY STATEMENTS,
25 TAXES, PENALTIES, AND INTEREST DUE WHILE A MEMBER; AND
- 26 (D) EACH MANAGER OF A MANAGER-MANAGED LIMITED LIABILITY COMPANY IS JOINTLY AND SEVERALLY LIABLE,
27 ALONG WITH THE LIMITED LIABILITY COMPANY, FOR ANY STATEMENTS, TAXES, PENALTIES, AND INTEREST DUE WHILE A
28 MANAGER.
- 29 (6) THE LIABILITY OF AN INDIVIDUAL DESCRIBED IN SUBSECTION (3) OR (5) FOR TAXES, PENALTIES, AND INTEREST
30 IS RELEASED IF AND TO THE EXTENT THAT THE AMOUNT REQUIRED TO BE DEDUCTED AND WITHHELD UNDER [SECTIONS

1 13 THROUGH 24] IS DEPOSITED IN A SEPARATE ACCOUNT THAT IS:

2 (A) ESTABLISHED IN A BANK, AS DEFINED IN 32-1-102, LOCATED IN MONTANA;

3 (B) DESIGNATED AS A SPECIAL FUND IN TRUST FOR THE STATE; AND

4 (C) PAYABLE TO THE DEPARTMENT.

5 (7) IF THE REMITTOR FAILS TO DEDUCT AND WITHHOLD THE AMOUNTS SPECIFIED IN [SECTION 15] AND THE TAX
6 AGAINST WHICH THE DEDUCTED AND WITHHELD AMOUNTS WOULD HAVE BEEN CREDITED IS PAID, THE AMOUNTS REQUIRED
7 TO BE DEDUCTED AND WITHHELD MAY NOT BE COLLECTED FROM THE REMITTOR.

8
9 NEW SECTION. SECTION 18. ROYALTY WITHHOLDING TAX REMITTANCE SCHEDULE -- ALTERNATIVE

10 SCHEDULES AND METHODS -- RECORDS. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), EACH REMITTOR IS REQUIRED TO
11 FILE A QUARTERLY RETURN, ON A FORM PRESCRIBED BY THE DEPARTMENT, AND REMIT TO THE DEPARTMENT THE AMOUNT
12 OF TAX WITHHELD ON ROYALTY PAYMENTS ACCORDING TO THE FOLLOWING SCHEDULE:

13 (A) FOR ROYALTY PAYMENTS MADE DURING JANUARY, FEBRUARY, AND MARCH OF EACH CALENDAR YEAR, THE
14 AMOUNT WITHHELD IS DUE ON OR BEFORE APRIL 30 OF THE YEAR;

15 (B) FOR ROYALTY PAYMENTS MADE DURING APRIL, MAY, AND JUNE OF EACH CALENDAR YEAR, THE AMOUNT
16 WITHHELD IS DUE ON OR BEFORE JULY 31 OF THE YEAR;

17 (C) FOR ROYALTY PAYMENTS MADE DURING JULY, AUGUST, AND SEPTEMBER OF EACH CALENDAR YEAR, THE
18 AMOUNT WITHHELD IS DUE ON OR BEFORE OCTOBER 31 OF THE YEAR; AND

19 (D) FOR ROYALTY PAYMENTS MADE DURING OCTOBER, NOVEMBER, AND DECEMBER OF EACH CALENDAR YEAR,
20 THE AMOUNT WITHHELD IS DUE ON OR BEFORE JANUARY 31 OF THE FOLLOWING YEAR.

21 (2) A REMITTOR MAY REQUEST AN ALTERNATIVE REMITTANCE SCHEDULE THAN IS REQUIRED BY SUBSECTION (1).
22 THE DEPARTMENT MAY CONSIDER SITUATIONS, SUCH AS ADMINISTRATIVE AND TAXPAYER CONVENIENCE AND FREQUENCY
23 OF ROYALTY PAYMENTS, IN DETERMINING WHETHER TO APPROVE AN ALTERNATIVE REMITTANCE SCHEDULE.

24 (3) A REMITTOR MAY ELECT TO REMIT AND FILE MINERAL BACKUP WITHHOLDING ELECTRONICALLY IN ANY FORMAT
25 ESTABLISHED AND APPROVED BY THE DEPARTMENT IF THE REMITTOR OBTAINS PRIOR APPROVAL FROM THE DEPARTMENT
26 BEFORE REMITTING THE TAX BY ELECTRONIC FUND TRANSFER.

27 (4) IF A REMITTOR REMITS WITHHOLDING TAXES ELECTRONICALLY, THE REMITTANCE IS CONSIDERED TIMELY IF
28 MADE WITHIN 5 DAYS AFTER THE DUE DATE OF THE PAYMENT.

29 (5) IF THE DEPARTMENT HAS REASON TO BELIEVE THAT COLLECTION OF THE AMOUNT OF ANY TAX WITHHELD IS
30 IN JEOPARDY, IT MAY PROCEED AS PROVIDED UNDER 15-1-703.

1 (6) EACH REMITTOR SHALL KEEP ACCURATE ROYALTY PAYMENT AND WITHHOLDING RECORDS CONTAINING THE
2 INFORMATION THAT THE DEPARTMENT MAY PRESCRIBE BY RULE. THOSE RECORDS MUST BE OPEN TO INSPECTION AND
3 AUDIT AND MAY BE COPIED BY THE DEPARTMENT OR ITS AUTHORIZED REPRESENTATIVE AT ANY REASONABLE TIME AND
4 AS OFTEN AS MAY BE NECESSARY. A REMITTOR THAT MAINTAINS ITS RECORDS OUTSIDE OF MONTANA SHALL FURNISH
5 COPIES OF THOSE RECORDS TO THE DEPARTMENT AT THE REMITTOR'S EXPENSE.

6
7 **NEW SECTION. SECTION 19. AMOUNT OF ROYALTY PAYMENT WITHHELD CONSIDERED TAXES COLLECTED.**
8 THE AMOUNTS DEDUCTED AND WITHHELD FROM ROYALTY PAYMENTS ARE CONSIDERED TAXES COLLECTED UNDER THE
9 PROVISIONS OF [SECTIONS 13 THROUGH 24]. A ROYALTY OWNER DOES NOT HAVE A RIGHT OF ACTION AGAINST THE
10 REMITTOR FOR ANY AMOUNT DEDUCTED AND WITHHELD FROM THE ROYALTY OWNER'S ROYALTY AND PAID TO THE STATE
11 IN COMPLIANCE OR INTENDED COMPLIANCE WITH [SECTIONS 13 THROUGH 24]. THE AMOUNTS DEDUCTED AND WITHHELD
12 AND PAID TO THE STATE IN COMPLIANCE OR INTENDED COMPLIANCE WITH [SECTIONS 13 THROUGH 24] ARE NOT SUBJECT
13 TO THE PROVISIONS OF 82-10-103.

14
15 **NEW SECTION. SECTION 20. ANNUAL WITHHOLDING STATEMENT TO ROYALTY OWNER. BEFORE JANUARY**
16 31 OF EACH YEAR, EACH REMITTOR SHALL FURNISH TO EACH ROYALTY OWNER A STATEMENT, ON A FORM PRESCRIBED
17 BY THE DEPARTMENT, SHOWING THE TOTAL ROYALTIES PAID BY THE REMITTOR TO THE ROYALTY OWNER DURING THE
18 PRECEDING CALENDAR YEAR AND SHOWING THE AMOUNT OF THE TAX DEDUCTED AND WITHHELD FROM THE ROYALTY
19 PAYMENTS. THE ROYALTY OWNER SHALL FILE A DUPLICATE OF THE STATEMENT WITH THE ROYALTY OWNER'S STATE
20 INCOME TAX RETURN.

21
22 **NEW SECTION. SECTION 21. REMITTOR TO FURNISH ANNUAL STATEMENT TO DEPARTMENT. (1) ON OR**
23 BEFORE FEBRUARY 28 OF EACH YEAR, EACH REMITTOR SHALL FILE WITH THE DEPARTMENT A ROYALTY AND TAX
24 STATEMENT, ON A FORM PROVIDED BY THE DEPARTMENT, THAT SHOWS THE TOTAL ROYALTIES PAID TO EACH ROYALTY
25 OWNER SUBJECT TO WITHHOLDING DURING THE PRECEDING CALENDAR YEAR OR ANY PORTION OF THE PRECEDING
26 CALENDAR YEAR AND THE TOTAL AMOUNT OF THE TAX DEDUCTED AND WITHHELD FROM THE ROYALTY PAYMENTS UNDER
27 THE PROVISIONS OF [SECTIONS 13 THROUGH 24] FOR THE SAME PERIOD.

28 **(2) THE ANNUAL STATEMENT FILED BY A REMITTOR UNDER THIS SECTION COMPLIES WITH THE REQUIREMENTS**
29 OF 15-30-301 RELATING TO THE DUTIES OF INFORMATION AGENTS. AN ADDITIONAL INFORMATION RETURN IS NOT
30 REQUIRED WITH RESPECT TO THE ROYALTY PAYMENTS.

1 (3) THE DEPARTMENT SHALL MAKE THE FORMS DESCRIBED IN [SECTION 18] AND THIS SECTION AVAILABLE NO
2 LATER THAN NOVEMBER 15, 2007.

3
4 NEW SECTION. SECTION 22. WITHHELD TAXES HELD IN TRUST FOR STATE. EACH REMITTOR THAT DEDUCTS
5 AND WITHHOLDS THE AMOUNTS UNDER THE PROVISIONS OF [SECTIONS 13 THROUGH 24] SHALL HOLD THE AMOUNTS IN
6 TRUST FOR THE STATE.

7
8 NEW SECTION. SECTION 23. VIOLATIONS BY REMITTOR -- PENALTIES -- INTEREST -- REMEDIES. (1) THE
9 DEPARTMENT SHALL, AS PROVIDED IN 15-1-216, ADD PENALTY AND INTEREST TO THE AMOUNT OF ALL DELINQUENT
10 WITHHOLDING TAXES.

11 (2) A REMITTOR THAT PURPOSELY FAILS TO FURNISH THE ROYALTY AND TAX STATEMENT REQUIRED BY [SECTION
12 21] IS SUBJECT TO A PENALTY OF \$50 FOR EACH FAILURE, WITH A MINIMUM OF \$1,000. THE PENALTIES IMPOSED BY THIS
13 SUBSECTION ARE IN ADDITION TO THE PENALTIES IMPOSED BY 15-1-216.

14 (3) ALL REMEDIES AVAILABLE TO THE STATE FOR THE ADMINISTRATION, ENFORCEMENT, AND COLLECTION OF
15 INCOME TAXES ARE AVAILABLE AND APPLY TO THE TAX REQUIRED TO BE DEDUCTED AND WITHHELD UNDER THE PROVISIONS
16 OF [SECTIONS 13 THROUGH 24] UNLESS OTHERWISE SPECIFICALLY PROVIDED FOR IN THIS PART.

17
18 NEW SECTION. SECTION 24. RULEMAKING AUTHORITY. THE DEPARTMENT SHALL ADOPT RULES THAT MAY
19 BE NECESSARY TO ADMINISTER AND ENFORCE THE PROVISIONS OF [SECTIONS 13 THROUGH 23].

20
21 NEW SECTION. SECTION 25. SHORT TITLE -- PURPOSE. (1) [SECTIONS 25 THROUGH 31] MAY BE CITED AS
22 "THE REPORTABLE TRANSACTION ACT".

23 (2) THE PURPOSE OF ENACTING [SECTIONS 25 THROUGH 31] IS TO ADDRESS REPORTABLE TRANSACTIONS AND
24 TAX EVASION. [SECTIONS 25 THROUGH 31] ARE NOT INTENDED TO PREVENT TAXPAYERS FROM MINIMIZING THEIR TAXES
25 IN COMPLIANCE WITH THE LAW.

26
27 NEW SECTION. SECTION 26. DEFINITIONS. AS USED IN [SECTIONS 25 THROUGH 31], THE FOLLOWING
28 DEFINITIONS APPLY:

29 (1) "DISQUALIFIED OPINION" HAS THE MEANING PROVIDED IN SECTION 6664(D)(3)(B)(III) OF THE INTERNAL
30 REVENUE CODE, 26 U.S.C. 6664(D)(3)(B)(III).

1 (2) "DISQUALIFIED TAX ADVISER" HAS THE MEANING PROVIDED IN SECTION 6664(D)(3)(B)(II) OF THE INTERNAL
2 REVENUE CODE, 26 U.S.C. 6664(D)(3)(B)(II).

3 (3) "GROSS VALUATION OVERSTATEMENT" HAS THE MEANING PROVIDED IN SECTION 6700(B) OF THE INTERNAL
4 REVENUE CODE, 26 U.S.C. 6700(B), AND ALSO MEANS ANY STATEMENT AS TO THE VALUE OF ANY PROPERTY OR
5 SERVICES IF:

6 (A) THE STATED VALUE EXCEEDS 200% OF THE AMOUNT DETERMINED TO BE THE CORRECT VALUATION; AND

7 (B) THE VALUE OF THE PROPERTY OR SERVICES IS DIRECTLY RELATED TO THE AMOUNT OF ANY DEDUCTION OR
8 CREDIT ALLOWABLE UNDER TITLE 15, CHAPTER 30 OR 31, TO ANY PARTICIPANT.

9 (4) "INTERNAL REVENUE CODE" HAS THE MEANING PROVIDED IN 15-30-101.

10 (5) "LISTED TRANSACTION" HAS THE MEANING PROVIDED IN SECTION 6707A(C)(2) OF THE INTERNAL REVENUE
11 CODE, 26 U.S.C. 6707A(C)(2), AND ALSO MEANS A REPORTABLE TRANSACTION THAT IS THE SAME AS OR SUBSTANTIALLY
12 SIMILAR TO A TRANSACTION OR ARRANGEMENT SPECIFICALLY IDENTIFIED BY THE DEPARTMENT PURSUANT TO [SECTION
13 31] AS A TAX EVASION TRANSACTION.

14 (6) "MATERIAL ADVISER" HAS THE MEANING PROVIDED IN SECTION 6111(B)(1) OF THE INTERNAL REVENUE CODE,
15 26 U.S.C. 6111(B)(1).

16 (7) "NONECONOMIC SUBSTANCE TRANSACTION" MEANS ANY TRANSACTION OR ARRANGEMENT THAT LACKS
17 ECONOMIC SUBSTANCE, AS DEFINED BY MONTANA OR FEDERAL LAW, INCLUDING A TRANSACTION OR ARRANGEMENT IN
18 WHICH THE SEPARATE LEGAL EXISTENCE OF AN ENTITY IS NOT RESPECTED BECAUSE THE CREATION OR USE OF THE ENTITY
19 LACKS A VALID NONTAX MONTANA BUSINESS PURPOSE.

20 (8) "REPORTABLE TRANSACTION" HAS THE MEANING PROVIDED IN SECTION 6707A(C)(1) OF THE INTERNAL
21 REVENUE CODE, 26 U.S.C. 6707A(C)(1). A REPORTABLE TRANSACTION INCLUDES, BUT IS NOT LIMITED TO:

22 (A) ANY TRANSACTION OR ARRANGEMENT DESCRIBED IN U.S. TREASURY REGULATIONS 1.6011-4(B)(1) THROUGH
23 1.6011-4(B)(7), 26 CFR 1.6011-4(B)(1) THROUGH (B)(7);

24 (B) A LISTED TRANSACTION; AND

25 (C) A NONECONOMIC SUBSTANCE TRANSACTION.

26 (9) "TAX SHELTER" HAS THE MEANING PROVIDED IN SECTION 6662(D)(2)(C)(II) OF THE INTERNAL REVENUE
27 CODE, 26 U.S.C. 6662(D)(2)(C)(II), AND ALSO MEANS A PARTNERSHIP OR OTHER ENTITY, ANY INVESTMENT PLAN OR
28 ARRANGEMENT, OR ANY OTHER PLAN OR ARRANGEMENT IF A SIGNIFICANT PURPOSE OF THE PARTNERSHIP, ENTITY, PLAN,
29 OR ARRANGEMENT IS THE EVASION OF A TAX IMPOSED BY TITLE 15, CHAPTER 30 OR 31. AS USED IN THIS SUBSECTION,
30 "SIGNIFICANT PURPOSE" HAS THE SAME MEANING GIVEN THE TERM UNDER FEDERAL TAX LAW.

1
2 **NEW SECTION. SECTION 27. TAXPAYER RESPONSIBILITY FOR DISCLOSURE OF REPORTABLE TRANSACTIONS**
3 **-- PENALTIES -- WAIVER -- EXTENSION OF STATUTE OF LIMITATIONS. (1) FOR EACH TAX YEAR IN WHICH A TAXPAYER, A**
4 **PASS-THROUGH ENTITY, A FEDERAL CONSOLIDATED GROUP OF WHICH A TAXPAYER IS A MEMBER, OR A MEMBER OF A**
5 **UNITARY GROUP OF WHICH A TAXPAYER IS A MEMBER HAS PARTICIPATED IN A REPORTABLE TRANSACTION, INCLUDING A**
6 **LISTED TRANSACTION, THE TAXPAYER, PASS-THROUGH ENTITY, FEDERAL CONSOLIDATED GROUP, OR UNITARY GROUP IS**
7 **REQUIRED TO DISCLOSE THE TRANSACTION AS PROVIDED IN SUBSECTION (2). IN ADDITION, FOR EACH TAX YEAR IN WHICH**
8 **A TAXPAYER, A PASS-THROUGH ENTITY, A FEDERAL CONSOLIDATED GROUP OF WHICH A TAXPAYER IS A MEMBER, OR A**
9 **MEMBER OF A UNITARY GROUP OF WHICH A TAXPAYER IS A MEMBER IS REQUIRED TO MAKE A DISCLOSURE STATEMENT**
10 **UNDER U.S. TREASURY REGULATION 1.6011-4, 26 CFR 1.6011-4, WITH RESPECT TO A REPORTABLE TRANSACTION,**
11 **INCLUDING A LISTED TRANSACTION, IN WHICH THE TAXPAYER, PASS-THROUGH ENTITY, FEDERAL CONSOLIDATED GROUP,**
12 **OR UNITARY GROUP PARTICIPATED, THE TAXPAYER, PASS-THROUGH ENTITY, FEDERAL CONSOLIDATED GROUP, OR UNITARY**
13 **GROUP SHALL FILE A COPY OF THE DISCLOSURE WITH THE DEPARTMENT AS PROVIDED IN SUBSECTION (2).**

14 **(2) (A) REPORTABLE TRANSACTIONS, INCLUDING LISTED TRANSACTIONS, MUST BE DISCLOSED IN THE MANNER**
15 **PRESCRIBED IN U.S. TREASURY REGULATIONS 1.6011-4, 26 CFR 1.6011-4, AND DEPARTMENT RULES. A TAXPAYER WHO**
16 **IS AN INDIVIDUAL IS REQUIRED TO DISCLOSE ONLY TRANSACTIONS THAT ARE REQUIRED TO BE DISCLOSED AS LISTED**
17 **TRANSACTIONS OR REPORTABLE TRANSACTIONS FOR FEDERAL INCOME TAX PURPOSES.**

18 **(B) (I) WITH RESPECT TO A LISTED TRANSACTION ENTERED INTO AFTER FEBRUARY 28, 2000, BUT ON OR BEFORE**
19 **DECEMBER 31, 2006, DISCLOSURE MUST BE MADE ON OR BEFORE THE DUE DATE OF AND ATTACHED TO THE TAXPAYER'S**
20 **ORIGINAL AND ANY AMENDED MONTANA INDIVIDUAL INCOME OR CORPORATION LICENSE TAX OR PASS-THROUGH ENTITY**
21 **INFORMATION RETURN FOR TAX YEAR 2006 AND TO THE ORIGINAL AND ANY AMENDED MONTANA INCOME OR CORPORATION**
22 **LICENSE TAX OR PASS-THROUGH ENTITY INFORMATION RETURN FOR ANY SUBSEQUENT TAX YEAR THAT REFLECTS A**
23 **REDUCTION IN MONTANA TAX RESULTING FROM THE LISTED TRANSACTION, INCLUDING A LOSS, DEDUCTION, OR CREDIT**
24 **RESULTING FROM A REPORTABLE TRANSACTION THAT IS BEING CARRIED FORWARD OR BACK.**

25 **(II) WITH RESPECT TO A REPORTABLE TRANSACTION, INCLUDING A LISTED TRANSACTION, ENTERED INTO AFTER**
26 **DECEMBER 31, 2006, DISCLOSURE MUST BE ATTACHED TO THE TAXPAYER'S ORIGINAL AND ANY AMENDED MONTANA**
27 **INDIVIDUAL INCOME OR CORPORATION LICENSE TAX OR PASS-THROUGH ENTITY INFORMATION RETURN FOR THE TAX YEAR**
28 **DURING WHICH THE TRANSACTION WAS ENTERED INTO AND TO THE ORIGINAL AND ANY AMENDED MONTANA INDIVIDUAL**
29 **INCOME OR CORPORATION LICENSE TAX OR PASS-THROUGH ENTITY INFORMATION RETURN FOR ANY LATER TAX YEAR THAT**
30 **REFLECTS A REDUCTION IN TAX RESULTING FROM THE REPORTABLE OR LISTED TRANSACTION, INCLUDING A LOSS,**

1 DEDUCTION, OR CREDIT THAT IS BEING CARRIED FORWARD OR BACK AND THAT IS A RESULT OF THE TRANSACTION.

2 (III) DISCLOSURE OF A REPORTABLE TRANSACTION ENTERED INTO AFTER FEBRUARY 28, 2000, MUST ALSO BE
3 ATTACHED TO ANY AMENDED MONTANA INDIVIDUAL INCOME OR CORPORATION LICENSE TAX OR PASS-THROUGH ENTITY
4 INFORMATION RETURN FILED AFTER DECEMBER 31, 2006, IF THE FILING REFLECTS A DETERMINATION BY THE INTERNAL
5 REVENUE SERVICE OF THE FEDERAL TAX TREATMENT OF A REPORTABLE TRANSACTION.

6 (3) THE PROVISIONS OF SUBSECTIONS (1) AND (2) APPLY TO ANY REPORTABLE TRANSACTION ENTERED INTO
7 AFTER FEBRUARY 28, 2000, FOR ANY TAX YEAR OR YEARS FOR WHICH THE TRANSACTION REMAINS UNDISCLOSED AND
8 FOR WHICH THE STATUTE OF LIMITATIONS ON ASSESSMENT, TAKING INTO ACCOUNT THE EXTENSION PROVIDED UNDER
9 SUBSECTION (12), HAS NOT EXPIRED AS OF [60 DAYS AFTER THE EFFECTIVE DATE OF SECTIONS 25 THROUGH 31].

10 (4) (A) A PERSON WHO DOES NOT INCLUDE ON A RETURN OR STATEMENT INFORMATION WITH RESPECT TO A
11 REPORTABLE TRANSACTION THAT IS REQUIRED UNDER SUBSECTION (2) OR (3) TO BE INCLUDED WITH THE RETURN OR
12 STATEMENT SHALL PAY A PENALTY, IN ADDITION TO ANY OTHER PENALTY IMPOSED, IN THE AMOUNT DETERMINED UNDER
13 SUBSECTIONS (4)(B) AND (4)(C).

14 (B) EXCEPT AS PROVIDED IN SUBSECTION (4)(C), THE AMOUNT OF THE PENALTY IMPOSED UNDER SUBSECTION
15 (4)(A) IS \$10,000 IN THE CASE OF AN INDIVIDUAL AND \$50,000 IN ANY OTHER CASE.

16 (C) WITH RESPECT TO A LISTED TRANSACTION, THE AMOUNT OF THE PENALTY UNDER SUBSECTION (4)(A) IS
17 \$100,000 IN THE CASE OF AN INDIVIDUAL AND \$200,000 IN ANY OTHER CASE.

18 (5) A PENALTY IMPOSED UNDER SUBSECTION (4) IS CONSIDERED ASSESSED ON THE DUE DATE OF THE TAX
19 RETURN UPON OR ATTACHED TO WHICH THE DISCLOSURE OF THE REPORTABLE TRANSACTION WAS REQUIRED PURSUANT
20 TO THIS SECTION AND DEPARTMENT RULES.

21 (6) THE DEPARTMENT MAY WAIVE ALL OR ANY PORTION OF ANY PENALTY IMPOSED BY THIS SECTION WITH
22 RESPECT TO ANY VIOLATION IF:

23 (A) THE VIOLATION IS WITH RESPECT TO A REPORTABLE TRANSACTION OTHER THAN A LISTED TRANSACTION; AND

24 (B) RESCINDING THE PENALTY WOULD PROMOTE COMPLIANCE WITH THE REQUIREMENTS OF TITLE 15, CHAPTER
25 30 OR 31, AND EFFECTIVE TAX ADMINISTRATION.

26 (7) THE PENALTY IMPOSED UNDER SUBSECTION (4) APPLIES TO ANY FAILURE TO DISCLOSE ANY LISTED
27 TRANSACTION ENTERED INTO AFTER FEBRUARY 28, 2000, OR ANY OTHER REPORTABLE TRANSACTION ENTERED INTO
28 AFTER [THE EFFECTIVE DATE OF SECTIONS 25 THROUGH 31] FOR ANY TAX YEAR OR YEARS FOR WHICH THE TRANSACTION
29 REMAINS UNDISCLOSED AND FOR WHICH THE STATUTE OF LIMITATIONS ON ASSESSMENT, TAKING INTO ACCOUNT THE
30 EXTENSION PROVIDED UNDER SUBSECTION (12), HAS NOT EXPIRED AS OF [60 DAYS AFTER THE EFFECTIVE DATE OF

1 SECTIONS 25 THROUGH 31].

2 (8) (A) IF A TAXPAYER HAS A REPORTABLE TRANSACTION UNDERSTATEMENT FOR ANY TAX YEAR AS DETERMINED
3 UNDER SUBSECTION (8)(B), THERE MUST BE ADDED TO THE TAX A PENALTY IN AN AMOUNT EQUAL TO 20% OF THE AMOUNT
4 OF THE UNDERSTATEMENT. IF THE REQUIREMENTS OF SUBSECTION (1) ARE NOT MET, THE PERCENTAGE TO BE USED FOR
5 THE PENALTY DETERMINATION IS 30% WITH RESPECT TO THE PORTION OF ANY REPORTABLE TRANSACTION
6 UNDERSTATEMENT.

7 (B) (I) EXCEPT AS PROVIDED BY DEPARTMENT RULE, A TAX TREATMENT INCLUDED WITH AN AMENDMENT OR
8 SUPPLEMENT TO A RETURN OF TAX MAY NOT BE TAKEN INTO ACCOUNT IN DETERMINING THE AMOUNT OF ANY REPORTABLE
9 TRANSACTION UNDERSTATEMENT IF THE AMENDMENT OR SUPPLEMENT IS FILED AFTER THE EARLIER OF THE DATE THE
10 TAXPAYER IS FIRST CONTACTED BY THE DEPARTMENT REGARDING THE EXAMINATION OF THE RETURN OR ANY OTHER DATE
11 THAT IS ADOPTED BY RULE PURSUANT TO [SECTION 31].

12 (II) A REPORTABLE TRANSACTION UNDERSTATEMENT IS THE SUM OF:

13 (A) THE PRODUCT OF:

14 (I) THE HIGHEST RATE OF TAX IMPOSED BY 15-30-103 IF THE TAXPAYER IS AN INDIVIDUAL AND 15-31-121 IF THE
15 TAXPAYER IS A C. CORPORATION; AND

16 (II) THE AMOUNT OF THE INCREASE, IF ANY, IN MONTANA TAXABLE INCOME, AS DETERMINED UNDER SUBSECTION
17 (8)(C), THAT RESULTS FROM A DIFFERENCE BETWEEN THE PROPER TAX TREATMENT OF AN ITEM TO WHICH SUBSECTION
18 (3) APPLIES AND THE TAXPAYER'S TREATMENT OF THAT ITEM AS SHOWN ON THE TAXPAYER'S RETURN OF TAX, INCLUDING
19 AN AMENDED RETURN IF THE AMENDED RETURN IS FILED PRIOR TO THE DATE THAT THE TAXPAYER IS FIRST CONTACTED
20 BY THE DEPARTMENT REGARDING THE EXAMINATION OF THE TAX YEAR FOR WHICH THE AMENDED RETURN IS FILED; AND

21 (B) THE AMOUNT OF THE DECREASE, IF ANY, IN THE AGGREGATE AMOUNT OF CREDITS THAT RESULTS FROM A
22 DIFFERENCE BETWEEN THE TAXPAYER'S TREATMENT OF AN ITEM TO WHICH SUBSECTION (3) APPLIES AS SHOWN ON THE
23 TAXPAYER'S RETURN OF TAX AND THE PROPER TAX TREATMENT OF THAT ITEM.

24 (C) THE AMOUNT OF THE INCREASE IN MONTANA TAXABLE INCOME FOR A PARTICULAR TAX YEAR INCLUDES THE
25 RESTATEMENT FOR ANOTHER TAX YEAR TO WHICH A LOSS OR DEDUCTION IS CARRIED FORWARD OR CARRIED BACK THAT
26 IS ATTRIBUTABLE TO THE REPORTABLE TRANSACTION FOR THAT YEAR IN WHICH THE CARRYFORWARD OR CARRYBACK OF
27 THE LOSS OR DEDUCTION APPLIES. ANY REDUCTION OF THE EXCESS OF DEDUCTIONS ALLOWED FOR THE TAX YEAR OVER
28 GROSS INCOME FOR THE YEAR AND ANY REDUCTION IN THE AMOUNT OF CAPITAL LOSSES THAT WOULD BE ALLOWED FOR
29 THE YEAR ARE TREATED AS AN INCREASE IN TAXABLE INCOME.

30 (D) THIS SUBSECTION (8) APPLIES TO ANY ITEM THAT IS ATTRIBUTABLE TO:

1 (i) ANY LISTED TRANSACTION; AND

2 (ii) ANY REPORTABLE TRANSACTION, OTHER THAN A LISTED TRANSACTION, IF SECTION 6662A OF THE INTERNAL
3 REVENUE CODE, 26 U.S.C. 6662A, APPLIES TO THE TRANSACTION OR IF A SIGNIFICANT PURPOSE OF THE TRANSACTION
4 IS THE EVASION OF MONTANA INCOME OR CORPORATION LICENSE TAX.

5 (E) A PENALTY IMPOSED UNDER THIS SUBSECTION (8) IS CONSIDERED ASSESSED ON THE DUE DATE OF THE
6 MONTANA TAX RETURN THAT SHOWS THE UNDERSTATEMENT OF TAX RESULTING FROM A REPORTABLE TRANSACTION TO
7 WHICH THE PENALTY RELATES.

8 (9) (A) FOR AN AMENDED RETURN FILED AFTER DECEMBER 31, 2007, AND BEFORE THE TAXPAYER IS CONTACTED
9 BY THE U.S. INTERNAL REVENUE SERVICE OR THE DEPARTMENT REGARDING A REPORTABLE TRANSACTION, THERE MUST
10 BE ADDED TO ANY REPORTABLE TRANSACTION UNDERSTATEMENT, AS DETERMINED UNDER SUBSECTION (8)(B), A PENALTY,
11 IN ADDITION TO ALL OTHER APPLICABLE PENALTIES, EQUAL TO 50% OF THE INTEREST ASSESSED UNDER 15-1-216 FOR
12 THE PERIOD BEGINNING ON THE LAST DATE PRESCRIBED BY LAW FOR THE PAYMENT OF THE TAX, DETERMINED WITHOUT
13 REGARD TO EXTENSIONS AND ENDING ON THE DATE OF PAYMENT.

14 (B) IF THE TAXPAYER HAS BEEN CONTACTED BY THE INTERNAL REVENUE SERVICE OR THE DEPARTMENT
15 REGARDING A REPORTABLE TRANSACTION, THERE MUST BE ADDED TO ANY REPORTABLE TRANSACTION UNDERSTATEMENT,
16 AS DETERMINED UNDER SUBSECTION (8)(B), A PENALTY, IN ADDITION TO ANY OTHER APPLICABLE PENALTIES, EQUAL TO
17 100% OF THE INTEREST ASSESSED UNDER 15-1-216 FOR THE PERIOD BEGINNING ON THE LAST DATE PRESCRIBED BY LAW
18 FOR THE PAYMENT OF THE TAX, DETERMINED WITHOUT REGARD TO EXTENSIONS AND ENDING ON THE DATE THE NOTICE
19 OF PROPOSED ASSESSMENT IS MAILED.

20 (10) (A) EXCEPT AS PROVIDED IN SUBSECTION (10)(B), THE DEPARTMENT MAY WAIVE ALL OR ANY PORTION OF
21 ANY PENALTY IMPOSED BY SUBSECTIONS (8) AND (9) WITH RESPECT TO ANY PORTION OF A REPORTABLE TRANSACTION
22 UNDERSTATEMENT IF IT IS SHOWN THAT THE TAXPAYER HAD A REASONABLE BASIS FOR THE TAX TREATMENT APPLICABLE
23 TO THAT PORTION AND ACTED IN GOOD FAITH WITH RESPECT TO THAT TREATMENT.

24 (B) SUBSECTION (10)(A) DOES NOT APPLY TO ANY REPORTABLE TRANSACTION UNDERSTATEMENT UNLESS:

25 (i) THE RELEVANT FACTS AFFECTING THE TAX TREATMENT OF THE ITEM ARE ADEQUATELY DISCLOSED IN
26 ACCORDANCE WITH ALL REQUIREMENTS OF SUBSECTION (1) AND DEPARTMENT RULES OR THE PENALTY FOR THE
27 TAXPAYER'S FAILURE TO FULLY DISCLOSE WAS WAIVED PURSUANT TO SUBSECTION (6):

28 (ii) THERE IS OR WAS SUBSTANTIAL AUTHORITY FOR THE TAX TREATMENT; AND

29 (iii) THE TAXPAYER REASONABLY BELIEVED THAT THE TAX TREATMENT WAS MORE LIKELY THAN NOT THE PROPER
30 TAX TREATMENT, BUT ONLY IF THE BELIEF:

1 (A) IS BASED ON THE FACTS AND LAW THAT EXIST AT THE TIME THE RETURN THAT INCLUDES THE TAX TREATMENT
 2 IS FILED;

3 (B) RELATES SOLELY TO THE TAXPAYER'S CHANCES OF SUCCESS ON THE MERITS OF THE TAX TREATMENT AND
 4 DOES NOT TAKE INTO ACCOUNT THE POSSIBILITY THAT A RETURN WILL NOT BE AUDITED, THE TAX TREATMENT WILL NOT
 5 BE RAISED ON AUDIT, OR THE TAX TREATMENT WILL BE RESOLVED THROUGH SETTLEMENT IF IT IS RAISED; AND

6 (C) DOES NOT RELY UPON THE OPINION OF A DISQUALIFIED TAX ADVISER OR ON A DISQUALIFIED OPINION.

7 (11) A PENALTY IMPOSED UNDER SUBSECTIONS (8) AND (9) APPLIES TO ANY UNDERSTATEMENT OF TAX
 8 RESULTING FROM A LISTED TRANSACTION ENTERED INTO AFTER FEBRUARY 28, 2000, OR FROM ANY OTHER REPORTABLE
 9 TRANSACTION ENTERED INTO AFTER [THE EFFECTIVE DATE OF SECTIONS 25 THROUGH 31] IN ANY TAX YEAR OR YEARS FOR
 10 WHICH THE STATUTE OF LIMITATIONS ON ASSESSMENT, TAKING INTO ACCOUNT THE EXTENSION PROVIDED IN SUBSECTION
 11 (12), HAS NOT EXPIRED AS OF [THE EFFECTIVE DATE OF SECTIONS 25 THROUGH 31].

12 (12) IF A TAXPAYER DOES NOT INCLUDE ON A RETURN OR STATEMENT FOR ANY TAX YEAR INFORMATION ABOUT
 13 A LISTED TRANSACTION REQUIRED UNDER SUBSECTION (1), THE TIME FOR ASSESSMENT OF A TAX IMPOSED BY TITLE 15,
 14 CHAPTER 30 OR 31, WITH RESPECT TO THAT TRANSACTION DOES NOT EXPIRE BEFORE THE DATE THAT IS 1 YEAR AFTER
 15 THE EARLIER OF THE DATE:

16 (A) ON WHICH THE DEPARTMENT IS FURNISHED THE INFORMATION REQUIRED; OR

17 (B) THAT A MATERIAL ADVISER MEETS THE REQUIREMENTS OF [SECTION 28] WITH RESPECT TO A REQUEST BY
 18 THE DEPARTMENT UNDER [SECTION 28(3)] RELATING TO THE TRANSACTION WITH RESPECT TO THE TAXPAYER.

19
 20 **NEW SECTION. SECTION 28. MATERIAL ADVISER RESPONSIBILITY FOR DISCLOSURE OF REPORTABLE**
 21 **TRANSACTIONS AND MAINTENANCE OF ADVISEE LISTS -- PENALTIES -- WAIVER. (1) (A) WITH RESPECT TO ANY REPORTABLE**
 22 **TRANSACTION, A MATERIAL ADVISER SHALL MAKE A RETURN IN THE FORM THAT THE DEPARTMENT PRESCRIBES SETTING**
 23 **FORTH:**

24 (I) INFORMATION IDENTIFYING AND DESCRIBING THE TRANSACTION;

25 (II) INFORMATION DESCRIBING ANY POTENTIAL TAX BENEFITS EXPECTED TO RESULT FROM THE TRANSACTION; AND

26 (III) ANY OTHER INFORMATION THAT THE DEPARTMENT MAY PRESCRIBE.

27 (B) A MATERIAL ADVISER WHO IS REQUIRED TO DISCLOSE A REPORTABLE TRANSACTION PURSUANT TO SECTION
 28 6111 OF THE INTERNAL REVENUE CODE, 26 U.S.C. 6111, SHALL FILE A COPY OF THE DISCLOSURE WITH THE
 29 DEPARTMENT.

30 (C) THE RETURN REQUIRED BY SUBSECTION (1)(A) AND DISCLOSURE REQUIRED BY SUBSECTION (1)(B) MUST BE

1 FILED NOT LATER THAN THE DATE SPECIFIED BY THE DEPARTMENT.

2 (D) THE DEPARTMENT MAY ADOPT RULES THAT PROVIDE:

3 (I) THAT ONLY ONE PERSON IS REQUIRED TO MEET THE REQUIREMENTS OF THIS SUBSECTION (1) IN CASES IN
4 WHICH TWO OR MORE PERSONS WOULD OTHERWISE BE REQUIRED TO MEET THE REQUIREMENTS; AND

5 (II) EXEMPTIONS FROM THE REQUIREMENTS OF THIS SUBSECTION (1).

6 (2) (A) EACH MATERIAL ADVISER WITH RESPECT TO ANY REPORTABLE TRANSACTION SHALL, WHETHER OR NOT
7 REQUIRED TO FILE A RETURN UNDER SUBSECTION (1)(A), MAINTAIN A LIST IDENTIFYING EACH MONTANA TAXPAYER,
8 PASS-THROUGH ENTITY, MEMBER OF A FEDERAL CONSOLIDATED GROUP, OR MEMBER OF A UNITARY GROUP FOR WHOM
9 THE ADVISER HAS ACTED AS A MATERIAL ADVISER WITH RESPECT TO THE TRANSACTION.

10 (B) THE LIST REQUIRED UNDER SUBSECTION (2)(A) MUST INCLUDE THE SAME INFORMATION AND MUST BE
11 MAINTAINED IN THE SAME FORM AND MANNER AS REQUIRED UNDER SECTION 6112 OF THE INTERNAL REVENUE CODE, 26
12 U.S.C. 6112, U.S. TREASURY REGULATION 301.6112-1, 26 CFR 301.6112-1, AND ANY ADDITIONAL INFORMATION OR
13 MAINTENANCE REQUIREMENTS AS THE DEPARTMENT MAY BY RULE REQUIRE.

14 (3) A PERSON REQUIRED TO MAINTAIN A LIST UNDER SUBSECTION (2)(A):

15 (A) SHALL MAKE THE LIST AVAILABLE TO THE DEPARTMENT UPON WRITTEN REQUEST; AND

16 (B) EXCEPT AS OTHERWISE PROVIDED BY THE DEPARTMENT BY RULE, SHALL RETAIN ANY INFORMATION THAT IS
17 REQUIRED TO BE INCLUDED ON THE LIST FOR 7 YEARS.

18 (4) THE DEPARTMENT MAY, BY RULE, PROVIDE THAT IN CASES IN WHICH TWO OR MORE PERSONS ARE REQUIRED
19 TO MAINTAIN THE SAME LIST OR A PORTION OF THE LIST UNDER SUBSECTION (2), ONLY ONE PERSON IS REQUIRED TO
20 MAINTAIN THE LIST OR PORTION OF THE LIST.

21 (5) (A) IF A PERSON WHO IS REQUIRED TO FILE A RETURN OR DISCLOSURE UNDER SUBSECTION (1) WITH RESPECT
22 TO ANY REPORTABLE TRANSACTION DOES NOT FILE THE RETURN OR DISCLOSURE ON OR BEFORE THE DUE DATE OR FILES
23 FALSE OR INCOMPLETE INFORMATION WITH THE DEPARTMENT WITH RESPECT TO THE TRANSACTION, THE PERSON SHALL
24 PAY A PENALTY WITH RESPECT TO THE RETURN OR DISCLOSURE IN THE AMOUNT DETERMINED UNDER SUBSECTIONS (5)(B)
25 AND (5)(C).

26 (B) EXCEPT AS PROVIDED IN SUBSECTION (5)(C), THE PENALTY IMPOSED UNDER (5)(A) WITH RESPECT TO ANY
27 FAILURE IS \$50,000.

28 (C) THE PENALTY IMPOSED UNDER SUBSECTION (5)(A) WITH RESPECT TO ANY LISTED TRANSACTION IS AN
29 AMOUNT EQUAL TO THE GREATER OF:

30 (i) \$200,000; OR

1 (II) EXCEPT AS PROVIDED IN SUBSECTION (5)(D), 50% OF THE GROSS INCOME DERIVED BY THE PERSON WITH
 2 RESPECT TO AID, ASSISTANCE, OR ADVICE THAT IS PROVIDED WITH RESPECT TO THE LISTED TRANSACTION BEFORE THE
 3 DATE THE RETURN AND, IF APPLICABLE, DISCLOSURE IS FILED UNDER SUBSECTION (1).

4 (D) FOR AN INTENTIONAL FAILURE OR ACT DESCRIBED IN SUBSECTION (5)(A), THE PERCENTAGE AMOUNT FOR
 5 THE PENALTY COMPUTATION IN SUBSECTION (5)(C)(II) IS 75%.

6 (E) IF A PERSON IS REQUIRED TO MAINTAIN A LIST UNDER SUBSECTION (2) BUT DOES NOT MAKE THE LIST
 7 AVAILABLE UPON WRITTEN REQUEST TO THE DEPARTMENT IN ACCORDANCE WITH SUBSECTION (3) WITHIN 20 BUSINESS
 8 DAYS AFTER THE DATE OF THE REQUEST, THE PERSON SHALL PAY A PENALTY OF \$10,000 FOR EACH DAY THE LIST IS NOT
 9 MADE AVAILABLE AFTER THE 20-DAY PERIOD HAS EXPIRED.

10 (6) EACH OF THE PENALTIES IMPOSED BY SUBSECTION (5) IS IN ADDITION TO ANY OTHER APPLICABLE PENALTIES.

11 (7) THE DEPARTMENT MAY WAIVE ALL OR ANY PORTION OF PENALTY IMPOSED UNDER SUBSECTION (5):

12 (A) WITH RESPECT TO ANY VIOLATION OF SUBSECTION (1) IF:

13 (I) THE VIOLATION RELATES TO A REPORTABLE TRANSACTION OTHER THAN A LISTED TRANSACTION; AND

14 (II) A WAIVER OF THE PENALTY WOULD PROMOTE COMPLIANCE WITH THE REQUIREMENTS OF TITLE 15, CHAPTERS
 15 30 AND 31, AND EFFECTIVE TAX ADMINISTRATION; AND

16 (B) WITH RESPECT TO ANY VIOLATION OF SUBSECTION (2), IF ON ANY DAY THE VIOLATION WAS DUE TO A
 17 REASONABLE CAUSE.

18 (8) THE PROVISIONS OF THIS SECTION APPLY TO TRANSACTIONS WITH RESPECT TO WHICH MATERIAL AID,
 19 ASSISTANCE, OR ADVICE IS PROVIDED BY A MATERIAL ADVISER AFTER [THE EFFECTIVE DATE OF SECTIONS 25 THROUGH
 20 31].

21
 22 NEW SECTION. SECTION 29. TAX SHELTERS -- PENALTY FOR PROMOTION. (1) THE PENALTY PROVIDED IN
 23 SUBSECTION (3) MUST BE PAID BY A PERSON WHO:

24 (A) (I) ORGANIZES OR ASSISTS IN THE ORGANIZATION OF:

25 (A) A PARTNERSHIP OR OTHER ENTITY;

26 (B) ANY INVESTMENT PLAN OR ARRANGEMENT; OR

27 (C) ANY OTHER PLAN OR ARRANGEMENT; OR

28 (II) PARTICIPATES, DIRECTLY OR INDIRECTLY, IN THE SALE OF ANY INTEREST IN AN ENTITY, PLAN, OR
 29 ARRANGEMENT REFERRED TO IN SUBSECTION (1)(A); AND

30 (B) MAKES OR FURNISHES OR CAUSES ANOTHER PERSON TO MAKE OR FURNISH IN CONNECTION WITH THE

1 ORGANIZATION OR SALE:

2 (i) A STATEMENT WITH RESPECT TO THE ALLOWABILITY OF ANY DEDUCTION OR CREDIT, THE EXCLUDABILITY OF

3 ANY INCOME, THE MANIPULATION OF ANY ALLOCATION OR APPORTIONMENT RULE, OR THE SECURING OF ANY OTHER TAX

4 BENEFIT BY REASON OF HOLDING AN INTEREST IN THE ENTITY OR PARTICIPATING IN A PLAN OR ARRANGEMENT THAT THE

5 PERSON KNOWS OR HAS REASON TO KNOW IS FALSE OR FRAUDULENT AS TO ANY MATERIAL MATTER; OR

6 (ii) A GROSS VALUATION OVERSTATEMENT AS TO ANY MATERIAL MATTER.

7 (2) ACTIVITIES DESCRIBED IN SUBSECTION (1)(A) WITH RESPECT TO EACH ENTITY OR ARRANGEMENT MUST BE

8 TREATED AS A SEPARATE ACTIVITY AND PARTICIPATION IN EACH SALE DESCRIBED IN SUBSECTION (1)(B) MUST BE TREATED

9 AS A SEPARATE ACTIVITY.

10 (3) A PERSON DESCRIBED IN SUBSECTION (1) SHALL PAY, WITH RESPECT TO EACH ACTIVITY DESCRIBED IN

11 SUBSECTION (1)(A) AND IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, A PENALTY EQUAL TO:

12 (A) THE LESSER OF:

13 (i) \$1,000; OR

14 (ii) 100% OF THE GROSS INCOME DERIVED OR TO BE DERIVED BY THE PERSON FROM THE ACTIVITY; OR

15 (B) IF AN ACTIVITY WITH RESPECT TO WHICH A PENALTY IMPOSED UNDER THIS SUBSECTION (3) INVOLVES A

16 DISCLOSURE DESCRIBED IN SUBSECTION (1)(B), A PENALTY OF 50% OF THE GROSS INCOME DERIVED OR TO BE DERIVED

17 FROM THE ACTIVITY BY THE PERSON ON WHICH THE PENALTY IS IMPOSED.

18 (4) THE DEPARTMENT MAY WAIVE ALL OR ANY PART OF THE PENALTY PROVIDED FOR IN SUBSECTION (3) WITH

19 RESPECT TO ANY GROSS VALUATION OVERSTATEMENT ON A SHOWING THAT THERE WAS A REASONABLE BASIS FOR THE

20 VALUATION AND THAT THE VALUATION WAS MADE IN GOOD FAITH.

21 (5) A PRIVILEGE OF CONFIDENTIALITY DOES NOT APPLY TO ANY WRITTEN COMMUNICATION THAT IS:

22 (A) BETWEEN A TAX PRACTITIONER AND:

23 (i) ANY PERSON;

24 (ii) THE DEPARTMENT OR ANY OFFICER, EMPLOYEE, AGENT, OR REPRESENTATIVE OF THE PERSON; OR

25 (iii) ANY OTHER PERSON HOLDING A CAPITAL OR PROFITS INTEREST IN THE PERSON; AND

26 (B) IN CONNECTION WITH THE PROMOTION OF THE DIRECT OR INDIRECT PARTICIPATION OF THE PERSON IN ANY

27 TAX SHELTER.

28 (6) THE PROVISIONS OF THIS SECTION APPLY TO ACTIVITIES AFTER [THE EFFECTIVE DATE OF SECTIONS 25

29 THROUGH 31].

30

1 NEW SECTION. SECTION 30. INJUNCTION OF CERTAIN CONDUCT RELATED TO REPORTABLE TRANSACTIONS

2 AND TAX SHELTERS. (1) A CIVIL ACTION IN THE NAME OF THE STATE TO ENJOIN ANY PERSON FROM FURTHER ENGAGING
 3 IN CONDUCT SPECIFIED IN SUBSECTION (3) MAY BE COMMENCED AT THE REQUEST OF THE DEPARTMENT. IF THE PERSON
 4 IS AN INDIVIDUAL WHO RESIDES IN MONTANA, AN ACTION UNDER THIS SECTION MUST BE BROUGHT IN THE COUNTY IN
 5 WHICH THE INDIVIDUAL RESIDES. IF THE PERSON IS NOT AN INDIVIDUAL WHO RESIDES IN MONTANA, AN ACTION UNDER THIS
 6 SECTION MUST BE BROUGHT IN THE FIRST JUDICIAL DISTRICT COURT OF LEWIS AND CLARK COUNTY. THE COURT MAY
 7 EXERCISE ITS JURISDICTION OVER THE ACTION SEPARATE AND APART FROM ANY OTHER ACTION BROUGHT BY THE STATE
 8 AGAINST THE PERSON.

9 (2) IN ANY ACTION UNDER THIS SECTION, IF THE COURT FINDS THAT THE PERSON HAS ENGAGED IN THE CONDUCT
 10 SPECIFIED IN SUBSECTION (3) AND THAT INJUNCTIVE RELIEF IS APPROPRIATE TO PREVENT RECURRENCE OF THAT
 11 CONDUCT, THE COURT MAY ENJOIN THE PERSON FROM ENGAGING IN THAT CONDUCT OR IN ANY OTHER ACTIVITY SUBJECT
 12 TO PENALTY UNDER [SECTIONS 25 THROUGH 31].

13 (3) CONDUCT SUBJECT TO INJUNCTION UNDER THIS SECTION IS ANY ACTION OR FAILURE TO TAKE ACTION THAT
 14 IS:

15 (A) SUBJECT TO PENALTY UNDER [SECTIONS 25 THROUGH 31]; OR

16 (B) IN VIOLATION OF ANY REQUIREMENT UNDER RULES ISSUED PURSUANT TO [SECTIONS 25 THROUGH 31].

17
 18 NEW SECTION. SECTION 31. TAX EVASION TRANSACTIONS -- DEPARTMENT RULES. (1) THE DEPARTMENT MAY

19 NOT SPECIFICALLY IDENTIFY A TRANSACTION OR ARRANGEMENT AS A TAX EVASION TRANSACTION UNLESS THE
 20 DEPARTMENT:

21 (A) CONSULTS WITH THE MULTISTATE TAX COMMISSION TO PROMOTE UNIFORMITY;

22 (B) CONSIDERS WHETHER THE TRANSACTION OR ARRANGEMENT INVOLVES SOME COMBINATION OF THE

23 FOLLOWING:

24 (I) LACKS MEANINGFUL ECONOMIC RISK OF LOSS OR POTENTIAL FOR GAIN;

25 (II) RESULTS IN PURPOSELY INCONSISTENT FINANCIAL AND ACCOUNTING TREATMENT;

26 (III) INVOLVES COMPLEXITY, UNNECESSARY STEPS, OR NOVEL INVESTMENTS;

27 (IV) UTILIZES TAX INDIFFERENT PARTIES; OR

28 (V) WAS MARKETED TO MULTIPLE INVESTORS;

29 (C) CONSIDERS WHETHER DISCLOSURE OF THE TRANSACTION IS LIMITED IN ANY MANNER BY EXPRESS OR IMPLIED
 30 UNDERSTANDING OR AGREEMENT, WHETHER OR NOT THE UNDERSTANDING OR AGREEMENT IS LEGALLY BINDING;

1 (D) CONSIDERS WHETHER THE TAXPAYER HAS THE RIGHT TO A FULL OR PARTIAL REFUND OF FEES PAID TO ANY
 2 PERSON WHO MAKES OR PROVIDES AN ORAL OR WRITTEN STATEMENT ABOUT THE POTENTIAL TAX CONSEQUENCES OF A
 3 TRANSACTION IF IT IS NOT SUSTAINED OR IF FEES ARE CONTINGENT ON THE TAXPAYER'S REALIZATION OF TAX BENEFITS
 4 FROM THE TRANSACTION; AND

5 (E) DETERMINES AND CONSIDERS THE COSTS OF TAXPAYER COMPLIANCE.

6 (2) THE DEPARTMENT SHALL BY RULE IDENTIFY EACH TRANSACTION OR ARRANGEMENT SPECIFICALLY IDENTIFIED
 7 BY THE DEPARTMENT PURSUANT TO SUBSECTION (1) AS A TAX EVASION TRANSACTION.

8 (3) THE DEPARTMENT SHALL FILE A REPORT WITH EACH RULE PROPOSAL NOTICE WHEN IT PROPOSES TO ADOPT
 9 A RULE TO IDENTIFY A LISTED TRANSACTION, SETTING FORTH HOW IT APPLIED THE CRITERIA LISTED IN SUBSECTION (1)
 10 IN PROPOSING TO IDENTIFY A TRANSACTION OR ARRANGEMENT AS A LISTED TRANSACTION.

11 (4) IN ADOPTING RULES PURSUANT TO [SECTIONS 25 THROUGH 31], THE DEPARTMENT SHALL DETERMINE AND
 12 CONSIDER THE COSTS OF TAXPAYER COMPLIANCE.

13
 14 NEW SECTION. SECTION 32. SHORT TITLE. [SECTIONS 32 THROUGH 37] MAY BE CITED AS "THE COMPILATION
 15 OF STATE TAX RETURN DATA ACT".

16
 17 NEW SECTION. SECTION 33. DEFINITIONS. AS USED IN [SECTIONS 32 THROUGH 37], THE FOLLOWING
 18 DEFINITIONS APPLY:

19 (1) "ALLOCATION" MEANS ASSIGNMENT OF INCOME TO ONE OR MORE INCOME TAX STATES BY MEANS OTHER THAN
 20 APPORTIONMENT.

21 (2) "APPORTIONMENT FACTOR" MEANS ANY COMPONENT RATIO USED IN THE APPORTIONMENT PERCENTAGE TO
 22 APPORTION BUSINESS INCOME, SUCH AS A PROPERTY FACTOR, A PAYROLL FACTOR, OR A SALES FACTOR.

23 (3) "APPORTIONMENT PERCENTAGE" MEANS THE PERCENTAGE FORMULA USED TO ASSIGN A PORTION OF THE
 24 BUSINESS INCOME OF THE TAXPAYER OR THE COMBINED REPORTING GROUP OF WHICH THE TAXPAYER IS A MEMBER TO
 25 AN INCOME TAX STATE.

26 (4) "BUSINESS ACTIVITY" MEANS ANY ACTIVITY CONDUCTED IN A STATE THAT GIVES RISE TO:

27 (A) GROSS INCOME;

28 (B) AN EXPENSE REFLECTED IN THE TAXPAYER'S FEDERAL INCOME TAX RETURN OR INCOME TAX RETURN OF ANY
 29 STATE; OR

30 (C) THE USE OR AVAILABILITY FOR USE OF PROPERTY IN THE STATE.

1 (5) "BUSINESS INCOME" MEANS THE TOTAL INCOME OR LOSS SUBJECT TO APPORTIONMENT.

2 (6) "COMBINED REPORTING" MEANS A METHOD OF DETERMINING BUSINESS INCOME AND APPORTIONMENT THAT
 3 TAKES INTO ACCOUNT THE BUSINESS INCOME AND APPORTIONMENT FACTORS OF MORE THAN A SINGLE CORPORATION AND
 4 FOR PURPOSES OF THIS SECTION INCLUDES A CONSOLIDATED RETURN.

5 (7) "INCOME TAX STATE" MEANS ANY STATE THAT IMPOSES A TAX ON, ACCORDING TO, OR MEASURED BY INCOME.

6 (8) "NONBUSINESS INCOME" MEANS INCOME OR LOSS SUBJECT TO ALLOCATION TO A SPECIFIC STATE OR STATES.

7
 8 **NEW SECTION. SECTION 34. TAXPAYER RESPONSIBILITY FOR FILING COMPILATION OF STATE TAX RETURN**

9 **DATA. (1) SUBJECT TO SUBSECTION (2), A TAXPAYER THAT CONDUCTS BUSINESS ACTIVITY IN THIS STATE AND ONE OR**
 10 **MORE OTHER STATES OR IS A MEMBER OF A COMBINED REPORTING GROUP THAT CONDUCTS BUSINESS ACTIVITY IN THIS**
 11 **STATE AND ONE OR MORE OTHER STATES SHALL COMPILE THE INFORMATION DESCRIBED BY [SECTION 35] AND FILE, IN THE**
 12 **FORM AND MANNER REQUIRED BY [SECTION 35], STATE TAX RETURN DATA AS REPORTED ON ITS TAX RETURNS FILED IN**
 13 **THIS AND ALL OTHER INCOME TAX STATES WITH RESPECT TO BUSINESS INCOME, NONBUSINESS INCOME, APPORTIONMENT,**
 14 **AND COMBINED REPORTING WHETHER OR NOT A FILING IS REQUIRED.**

15 (2) A TAXPAYER IS SUBJECT TO THE PROVISIONS OF [SECTION 34, 35, 36, OR 37] FOR ANY TAX YEAR:

16 (A) FOR WHICH THE TAXPAYER OR A COMBINED REPORTING GROUP OF WHICH THE TAXPAYER IS A MEMBER:

17 (i) IS REQUIRED TO FILE INTERNAL REVENUE SERVICE SCHEDULE M-3 WITH ITS FEDERAL TAX RETURN; AND

18 (ii) IS SUBJECT TO ALLOCATION AND APPORTIONMENT UNDER 15-31-301; AND

19 (B) IN WHICH THE MONTANA APPORTIONMENT PERCENTAGE, AS SHOWN ON THE TAXPAYER'S MONTANA TAX
 20 RETURN, IS LESS THAN 20%.

21
 22 **NEW SECTION. SECTION 35. INFORMATION REQUIRED TO BE COMPILED AND FILED -- TIME AND MANNER OF**

23 **FILING. (1) FOR EACH INCOME TAX STATE IN WHICH A TAXPAYER OR A MEMBER OF A COMBINED REPORTING GROUP OF**
 24 **WHICH A TAXPAYER IS A MEMBER HAS BUSINESS ACTIVITY, THE FOLLOWING INFORMATION MUST BE COMPILED AND FILED:**

25 (A) WHETHER THE TAXPAYER FILED IN THAT STATE;

26 (B) THE BUSINESS INCOME OF THE TAXPAYER OR OF THE TAXPAYER'S COMBINED REPORTING GROUP REPORTED
 27 TO THAT STATE;

28 (C) THE TOTAL NONBUSINESS INCOME OF THE TAXPAYER OR THE TOTAL NONBUSINESS INCOME OF EACH MEMBER
 29 OF THE TAXPAYER'S COMBINED REPORTING GROUP;

30 (D) THE TOTAL NONBUSINESS INCOME OF THE TAXPAYER OR THE TOTAL NONBUSINESS INCOME OF EACH MEMBER

1 OF THE TAXPAYER'S COMBINED REPORTING GROUP THAT IS ALLOCABLE TO THAT STATE;

2 (E) FOR EACH OF THE APPORTIONMENT FACTORS USED TO DETERMINE THE APPORTIONMENT PERCENTAGE, THE
3 DOLLAR AMOUNT OF THE NUMERATOR AND THE DENOMINATOR OF THE RATIO USED IN THAT FACTOR;

4 (F) THE APPORTIONMENT PERCENTAGE USED TO APPORTION INCOME SUBJECT TO TAXATION IN THAT STATE;

5 (G) THE DOLLAR AMOUNT OF BUSINESS INCOME APPORTIONED TO THAT STATE;

6 (H) FOR THOSE STATES THAT USE COMBINED REPORTING TO APPORTION INCOME FOR EACH COMBINED
7 REPORTING GROUP OF WHICH THE TAXPAYER IS A MEMBER, A LIST OF ALL CORPORATIONS WHOSE BUSINESS INCOME WAS
8 INCLUDED IN BUSINESS INCOME OF THE COMBINED REPORTING GROUP; AND

9 (I) ANY OTHER INFORMATION RELATING TO THE DETERMINATION OF BUSINESS INCOME, NONBUSINESS INCOME,
10 OR THE APPORTIONMENT OR ALLOCATION OF THAT INCOME THAT THE DEPARTMENT BY RULE REQUIRES.

11 (2) THE COMPILATION OF STATE TAX RETURN DATA REQUIRED BY SUBSECTION (1) MUST BE FILED WITHIN 180
12 DAYS OF THE FILING OF THE ORIGINAL FEDERAL INCOME TAX RETURN AND ANY AMENDED MONTANA CORPORATION LICENSE
13 TAX RETURN EXCLUSIVE OF FEDERAL CHANGES.

14 (3) (A) EXCEPT AS PROVIDED IN SUBSECTION (3)(B), THE COMPILATION OF STATE TAX RETURN DATA REQUIRED
15 BY SUBSECTION (1) MUST BE FILED IN THE FORM AND MANNER REQUIRED BY THE DEPARTMENT AND MUST BE CONSISTENT
16 WITH THE FORMAT DEVELOPED AND MAINTAINED FOR THOSE FILINGS BY THE MULTISTATE TAX COMMISSION.

17 (B) IN LIEU OF THE REQUIREMENTS OF SUBSECTION (3)(A), A TAXPAYER MAY ELECT TO FILE A COPY OF EACH
18 INCOME TAX RETURN FILED IN EACH INCOME TAX STATE IN WHICH THE TAXPAYER OR A MEMBER OF A COMBINED
19 REPORTING GROUP OF WHICH THE TAXPAYER IS A MEMBER HAS BUSINESS ACTIVITY.

20
21 **NEW SECTION. SECTION 36. RETENTION AND PROVISION OF RECORDS REQUIRED. (1) A TAXPAYER SHALL**
22 RETAIN A COPY OF ITS FILINGS OF THE MONTANA CORPORATE LICENSE TAX SCHEDULE FOR APPORTIONMENT FACTORS
23 FOR MULTISTATE TAXPAYERS AND THE EQUIVALENT SCHEDULE FILED BY THE TAXPAYER OR A MEMBER OF THE TAXPAYER'S
24 COMBINED REPORTING GROUP IN THE OTHER STATE OR STATES IN WHICH THE TAXPAYER OR THE TAXPAYER'S COMBINED
25 REPORTING GROUP CONDUCTED BUSINESS ACTIVITY. THE TAXPAYER SHALL, WITHIN 60 DAYS OF A WRITTEN REQUEST OR
26 WITHIN ANY ADDITIONAL TIME THAT THE DEPARTMENT GRANTS UPON WRITTEN REQUEST FOR EXTENSION, PROVIDE A COPY
27 OF THE SCHEDULES TO THE DEPARTMENT. INFORMATION REQUIRED TO BE RETAINED UNDER THIS SECTION MUST BE
28 RETAINED FOR THAT PERIOD OF TIME DURING WHICH THE TAXPAYER'S CORPORATION LICENSE TAX LIABILITY TO THIS STATE
29 FOR THAT TAX YEAR MAY BE SUBJECT TO ADJUSTMENT, INCLUDING ALL PERIODS IN WHICH ADDITIONAL INCOME TAXES OR
30 PENALTIES MAY BE ASSESSED, OR DURING WHICH A PROTEST, APPEAL, OR LAWSUIT IS PENDING WITH RESPECT TO

1 MONTANA CORPORATION LICENSE.

2 (2) (A) EXCEPT AS PROVIDED IN SUBSECTION (2)(B), THE PROVISIONS OF THIS SECTION APPLY TO INFORMATION
 3 ASSOCIATED WITH ANY RETURN DUE ON OR AFTER [THE DATE 2 YEARS PRIOR TO THE EFFECTIVE DATE OF SECTIONS 32
 4 THROUGH 37].

5 (B) DURING THE COURSE OF AN AUDIT INVESTIGATION, THE DEPARTMENT MAY, FOLLOWING [THE EFFECTIVE DATE
 6 OF SECTIONS 32 THROUGH 37], REQUIRE PRODUCTION OF INFORMATION IN POSSESSION OF THE TAXPAYER OR, IF
 7 APPLICABLE, A MEMBER OF THE TAXPAYER'S COMBINED REPORTING GROUP FOR ANY TAX YEAR FOR WHICH THE STATUTE
 8 OF LIMITATIONS ON ASSESSMENT HAS NOT EXPIRED.

9

10 NEW SECTION. SECTION 37. PENALTIES FOR FAILURE TO FILE, RETAIN, OR PROVIDE INFORMATION --
 11 ASSESSMENT DATE -- WAIVER. (1) (A) A TAXPAYER WHO DOES NOT FILE, RETAIN, OR PROVIDE INFORMATION WITH RESPECT
 12 TO STATE TAX RETURN DATA AS REQUIRED BY [SECTIONS 34 THROUGH 36] AND DEPARTMENT RULES IS SUBJECT TO
 13 PENALTY IN AN AMOUNT DETERMINED UNDER SUBSECTIONS (1)(B) AND (1)(C) IN ADDITION TO ANY OTHER APPLICABLE
 14 PENALTIES.

15 (B) FOR FAILURE TO FILE A COMPILATION OF STATE TAX RETURN DATA AS REQUIRED PURSUANT TO [SECTION 35],
 16 THE AMOUNT OF THE PENALTY IS THE GREATER OF \$10,000 OR 0.25% OF THE AMOUNT OF NET INCOME PROPERLY
 17 APPORTIONED AND ALLOCATED TO THIS STATE;

18 (C) FOR FAILURE TO PROVIDE INFORMATION REQUIRED TO BE RETAINED UNDER [SECTION 36] WITHIN 60 DAYS
 19 OF A REQUEST BY THE DEPARTMENT OR WITHIN ANY ADDITIONAL TIME THE DEPARTMENT ALLOWS BY EXTENSION, THE
 20 AMOUNT OF THE PENALTY IS \$1,000 AND AN ADDITIONAL PENALTY OF \$5,000 MUST BE ASSESSED FOR EACH ADDITIONAL
 21 30 DAYS THAT THE INFORMATION IS NOT PROVIDED. IF A TAXPAYER STATES THAT THE INFORMATION REQUIRED UNDER
 22 [SECTION 36] DOES NOT EXIST AND SUBMITS AN AFFIDAVIT TO THAT EFFECT, THE TAXPAYER IS SUBJECT TO A PENALTY IN
 23 THE AMOUNT OF \$30,000 IN LIEU OF ADDITIONAL 30-DAY PENALTIES.

24 (2) (A) THE PENALTY IMPOSED UNDER SUBSECTION (1)(B) IS CONSIDERED ASSESSED ON THE DUE DATE OF THE
 25 FILING REQUIRED PURSUANT TO [SECTION 35] AND DEPARTMENT RULES.

26 (B) THE PENALTY IMPOSED UNDER SUBSECTION (1)(C) IS CONSIDERED ASSESSED ON THE 30TH DAY FOLLOWING
 27 A REQUEST BY THE DEPARTMENT AND, IF APPLICABLE, IS ASSESSED FOR EACH ADDITIONAL 30-DAY PERIOD DURING WHICH
 28 THE TAXPAYER FAILS TO PROVIDE THE INFORMATION REQUIRED TO BE RETAINED PURSUANT TO [SECTION 36].

29 (3) THE DEPARTMENT MAY WAIVE OR ABATE ALL OR ANY PORTION OF ANY PENALTY IMPOSED BY THIS SECTION
 30 WITH RESPECT TO ANY VIOLATION IF RESCINDING THE PENALTY WOULD PROMOTE COMPLIANCE WITH THE REQUIREMENTS

1 OF [SECTIONS 32 THROUGH 37] AND EFFECTIVE TAX ADMINISTRATION.

2

3 NEW SECTION. SECTION 38. SHORT TITLE. [SECTIONS 38 THROUGH 40] MAY BE CITED AS "THE ACT FOR TAX
4 EVASION TRANSACTION VOLUNTARY COMPLIANCE PROGRAM".

5

6 NEW SECTION. SECTION 39. DEFINITIONS. AS USED IN [SECTIONS 38 THROUGH 40], THE FOLLOWING
7 DEFINITIONS APPLY:

8 (1) "ELIGIBLE TAXPAYER" MEANS ANY TAXPAYER WHO, DURING THE PERIOD FROM SEPTEMBER 1, 2007,
9 THROUGH DECEMBER 31, 2007, DOES BOTH OF THE FOLLOWING:

10 (A) FILES AN AMENDED MONTANA TAX RETURN FOR EACH TAX YEAR FOR WHICH THE TAXPAYER HAS PREVIOUSLY
11 FILED A MONTANA TAX RETURN USING A TAX EVASION TRANSACTION TO UNDERREPORT THE TAXPAYER'S INCOME OR
12 CORPORATION LICENSE TAX LIABILITY REPORTING THE TOTAL MONTANA NET INCOME AND TAX FOR THE TAX YEAR
13 COMPUTED WITHOUT REGARD TO ANY TAX EVASION TRANSACTIONS AND WITHOUT REGARD TO ANY OTHER ADJUSTMENTS
14 THAT ARE UNRELATED TO TAX EVASION TRANSACTIONS; AND

15 (B) MAKES FULL PAYMENT OR ENTERS INTO AN INSTALLMENT PAYMENT AGREEMENT AS PROVIDED IN [SECTION
16 40(6)] FOR PAYMENT OF THE ENTIRE AMOUNT OF MONTANA INCOME OR CORPORATION LICENSE TAX AND INTEREST DUE
17 FOR EACH TAX YEAR THAT IS ATTRIBUTABLE TO THE USE OF THE TAX EVASION TRANSACTION.

18 (2) "PROGRAM" MEANS THE VOLUNTARY COMPLIANCE PROGRAM ESTABLISHED IN [SECTIONS 38 THROUGH 40].

19 (3) "TAX EVASION TRANSACTION" MEANS A TRANSACTION, PLAN, OR ARRANGEMENT DEVISED FOR THE PRINCIPAL
20 PURPOSE OF EVADING FEDERAL INCOME TAX OR MONTANA INCOME OR CORPORATION LICENSE TAX. A TAX EVASION
21 TRANSACTION INCLUDES BUT IS NOT LIMITED TO A REPORTABLE TRANSACTION AS DEFINED IN [SECTION 26], INCLUDING
22 A LISTED TRANSACTION AS DEFINED IN [SECTION 26].

23

24 NEW SECTION. SECTION 40. TAX EVASION TRANSACTION VOLUNTARY COMPLIANCE PROGRAM. (1) THERE
25 IS A TAX EVASION TRANSACTION VOLUNTARY COMPLIANCE PROGRAM FOR ELIGIBLE TAXPAYERS SUBJECT TO TAX UNDER
26 TITLE 15, CHAPTER 30 OR 31, AS PROVIDED IN [SECTIONS 38 THROUGH 40]. THE DEPARTMENT SHALL DEVELOP AND
27 ADMINISTER THE PROGRAM. THE PROGRAM MUST BE CONDUCTED FROM SEPTEMBER 1, 2007, THROUGH DECEMBER 31,
28 2007, AND APPLIES TO TAX LIABILITIES ATTRIBUTABLE TO THE USE OF TAX EVASION TRANSACTIONS FOR TAX YEARS
29 BEGINNING BEFORE JANUARY 1, 2007. THE DEPARTMENT SHALL ADOPT RULES, ISSUE FORMS AND INSTRUCTIONS, AND
30 TAKE ANY OTHER ACTION THAT IT CONSIDERS NECESSARY TO IMPLEMENT THE PROGRAM.

1 (2) AN ELIGIBLE TAXPAYER MAY ELECT TO PARTICIPATE IN THE PROGRAM WITH RESPECT TO ANY TAX YEAR TO
2 WHICH THE PROGRAM APPLIES UNDER EITHER SUBSECTION (3) OR (4). THE ELECTION MUST BE MADE FOR ALL TAX YEARS
3 FOR WHICH THE TAXPAYER WILL PARTICIPATE, AND A SEPARATE ELECTION FOR DIFFERENT TAX YEARS OR FOR DIFFERENT
4 TRANSACTIONS IN DIFFERENT TAX YEARS IS NOT ALLOWED. THE ELECTION MUST BE MADE IN THE FORM AND MANNER
5 PRESCRIBED BY THE DEPARTMENT AND, ONCE MADE, IS IRREVOCABLE.

6 (3) IF AN ELIGIBLE TAXPAYER ELECTS TO PARTICIPATE UNDER THIS SUBSECTION (3):

7 (A) THE DEPARTMENT SHALL WAIVE ALL PENALTIES APPLICABLE TO THE UNDERREPORTING OR UNDERPAYMENT
8 OF MONTANA INCOME OR CORPORATION LICENSE TAX ATTRIBUTABLE TO THE USE OF TAX EVASION TRANSACTIONS FOR
9 THE TAX YEARS FOR WHICH THE TAXPAYER VOLUNTARILY COMPLIES, INCLUDING PENALTIES IMPOSED UNDER [SECTIONS
10 25 THROUGH 37];

11 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE DEPARTMENT MAY NOT SEEK CRIMINAL PROSECUTION
12 AGAINST THE TAXPAYER FOR THE TAX YEAR UNDERREPORTING AND UNDERPAYMENT WITH RESPECT TO TAX EVASION
13 TRANSACTIONS FOR WHICH THE TAXPAYER VOLUNTARILY COMPLIES;

14 (C) A PENALTY MAY NOT BE WAIVED UNDER THIS SECTION IF THE PENALTY IMPOSED RELATES TO AN AMOUNT OF
15 MONTANA INCOME OR CORPORATION LICENSE TAX ASSESSED OR PAID PRIOR TO SEPTEMBER 1, 2007; AND

16 (D) THE TAXPAYER MAY NOT FILE A CLAIM FOR CREDIT OR REFUND WITH RESPECT TO THE TAX EVASION
17 TRANSACTIONS FOR THAT TAX YEAR OR FOR ANY AMOUNTS PAID UNDER THE PROGRAM.

18 (4) IF AN ELIGIBLE TAXPAYER ELECTS TO PARTICIPATE UNDER THIS SUBSECTION (4):

19 (A) THE DEPARTMENT SHALL WAIVE ANY PENALTY IMPOSED UNDER [SECTIONS 25 THROUGH 37] WITH RESPECT
20 TO DISCLOSURE OF TAX EVASION TRANSACTIONS AND UNDERPAYMENT OF MONTANA INCOME AND CORPORATION LICENSE
21 TAX RESULTING FROM THE USE OF TAX EVASION TRANSACTIONS FOR ANY TAX YEARS FOR WHICH THE TAXPAYER
22 VOLUNTARILY COMPLIES, BUT MAY NOT WAIVE PENALTIES IMPOSED PRIOR TO [THE EFFECTIVE DATE OF SECTIONS 25
23 THROUGH 37];

24 (B) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5) OR (6), THE DEPARTMENT MAY NOT SEEK CRIMINAL
25 PROSECUTION AGAINST THE TAXPAYER FOR THE TAX YEAR UNDERREPORTING AND UNDERPAYMENT WITH RESPECT TO TAX
26 EVASION TRANSACTIONS FOR WHICH THE TAXPAYER VOLUNTARILY COMPLIES;

27 (C) A PENALTY MAY NOT BE WAIVED UNDER THIS SECTION IF THE PENALTY IMPOSED RELATES TO AN AMOUNT OF
28 MONTANA INCOME OR CORPORATION LICENSE TAX ASSESSED OR PAID PRIOR TO SEPTEMBER 1, 2007;

29 (D) THE FACT A TAXPAYER PARTICIPATED IN THE PROGRAM MAY NOT BE CONSIDERED EVIDENCE THE TAXPAYER
30 ENGAGED IN A TAX EVASION TRANSACTION;

- 1 (E) ANY PENALTIES THAT ARE NOT WAIVED ARE CONSIDERED ASSESSED UPON THE DUE DATE OF THE RETURN,
2 DETERMINED WITHOUT REGARD TO EXTENSIONS, UPON WHICH THE AMOUNT SHOULD HAVE BEEN PAID;
- 3 (F) THE TAXPAYER MAY FILE A CLAIM FOR CREDIT OR REFUND AS PROVIDED IN TITLE 15, CHAPTER 30 OR 31, WITH
4 RESPECT TO THE TAX YEAR; AND
- 5 (G) NOTWITHSTANDING 15-1-211, THE TAXPAYER MAY NOT FILE AN APPEAL UNTIL AFTER EITHER OF THE
6 FOLLOWING:
- 7 (I) THE DEPARTMENT ISSUES A FINAL DETERMINATION WITH RESPECT TO THE TRANSACTIONS AT ISSUE; OR
8 (II) THE EARLIER OF:
- 9 (A) THE DATE THAT IS 180 DAYS AFTER THE DATE OF A FINAL DETERMINATION BY THE INTERNAL REVENUE
10 SERVICE WITH RESPECT TO THE TRANSACTIONS AT ISSUE; OR
- 11 (B) THE DATE THAT IS 4 YEARS AFTER THE DATE THAT THE CLAIM FOR REFUND WAS FILED OR 1 YEAR AFTER THE
12 FULL PAYMENT OF ALL MONTANA INCOME OR CORPORATION LICENSE TAX, INCLUDING PENALTY AND INTEREST.
- 13 (5) THE PROVISIONS OF 15-1-211(2)(C) AND (4)(C) AND 15-2-302(2) DO NOT APPLY TO CLAIMS FILED UNDER
14 THIS SECTION.
- 15 (6) THE DEPARTMENT MAY ENTER INTO AN INSTALLMENT PAYMENT AGREEMENT IN LIEU OF FULL PAYMENT OF THE
16 ENTIRE AMOUNT OF MONTANA INCOME OR CORPORATION LICENSE TAX AND INTEREST DUE FOR THE TAX YEAR THAT IS
17 ATTRIBUTABLE TO THE USE OF THE TAX EVASION TRANSACTION. ANY INSTALLMENT PAYMENT AGREEMENT AUTHORIZED
18 BY THIS SUBSECTION MUST INCLUDE INTEREST ON THE UNPAID AMOUNT AT THE RATE PRESCRIBED BY 15-1-216. FAILURE
19 BY THE TAXPAYER TO FULLY COMPLY WITH THE TERMS OF THE INSTALLMENT PAYMENT AGREEMENT RENDERS THE WAIVER
20 OF PENALTIES VOID, AND THE TOTAL AMOUNT OF TAX, INTEREST, AND ALL PENALTIES IS IMMEDIATELY DUE AND PAYABLE.
- 21 (7) AFTER DECEMBER 31, 2007, THE DEPARTMENT MAY ISSUE A DEFICIENCY ASSESSMENT UPON AN AMENDED
22 RETURN FILED BY AN ELIGIBLE TAXPAYER, IMPOSE PENALTIES, OR INITIATE CRIMINAL ACTION WITH RESPECT TO THE
23 DIFFERENCE BETWEEN THE AMOUNT SHOWN ON THAT RETURN AND THE CORRECT AMOUNT OF TAX. THE PENALTY RELIEF
24 PROVIDED IN SUBSECTION (3) OR (4) DOES NOT APPLY TO ANY PORTION OF THE UNDERPAYMENT ATTRIBUTABLE TO A TAX
25 EVASION TRANSACTION NOT PAID TO THE STATE.
- 26 (8) ANY CORRESPONDENCE MAILED BY THE DEPARTMENT TO A TAXPAYER AT THE TAXPAYER'S LAST-KNOWN
27 ADDRESS OUTLINING THE PROGRAM CONSTITUTES A CONTACT FOR PURPOSES OF [SECTION 27(9)].
- 28 (9) (A) IN ADDITION TO ANY OTHER AUTHORITY TO EXAMINE RETURNS FOR THE PURPOSE OF IMPROVING STATE
29 TAX ADMINISTRATION, THE DEPARTMENT MAY INQUIRE INTO THE FACTS AND CIRCUMSTANCES RELATED TO THE USE OF
30 TAX EVASION TRANSACTIONS TO UNDERREPORT THE TAX LIABILITIES FOR WHICH A TAXPAYER HAS PARTICIPATED IN THE

1 PROGRAM UNDER [SECTIONS 38 THROUGH 40].

2 (B) A TAXPAYER SHALL COOPERATE FULLY WITH INQUIRIES DESCRIBED IN SUBSECTION (9)(A).

3 (C) FAILURE BY A TAXPAYER TO FULLY COOPERATE IN AN INQUIRY DESCRIBED IN SUBSECTION (9)(A) RENDERS
4 THE WAIVER OF PENALTIES UNDER [SECTIONS 38 THROUGH 40] VOID, AND THE TAXPAYER MAY BE ASSESSED ANY
5 PENALTIES THAT MAY APPLY.

6
7 NEW SECTION. SECTION 41. SHORT TITLE. [SECTIONS 41 THROUGH 46] MAY BE CITED AS THE "MONTANA
8 REAL ESTATE BACKUP WITHHOLDING ACT".

9
10 NEW SECTION. SECTION 42. DEFINITIONS. AS USED IN [SECTIONS 41 THROUGH 46], THE FOLLOWING
11 DEFINITIONS APPLY:

12 (1) "CERTIFIED CALCULATED GAIN" MEANS THE GAIN THE TRANSFEROR CERTIFIES IN WRITING TO THE
13 DEPARTMENT, UNDER PENALTY OF FALSE SWEARING AS PROVIDED IN 45-7-202, THAT THE TRANSFEROR WILL REALIZE ON
14 A DISPOSITION OF MONTANA REAL ESTATE.

15 (2) "IMPROVEMENTS" HAS THE MEANING PROVIDED IN 15-1-101.

16 (3) "MONTANA REAL ESTATE" MEANS REAL ESTATE OR IMPROVEMENTS LOCATED IN MONTANA.

17 (4) "PRINCIPAL RESIDENCE" MEANS A PRINCIPAL RESIDENCE WITHIN THE MEANING OF SECTION 121 OF THE
18 INTERNAL REVENUE CODE, 26 U.S.C. 121.

19 (5) "REAL ESTATE" HAS THE MEANING PROVIDED IN 15-1-101.

20 (6) "SALES PRICE" MEANS THE TOTAL CONSIDERATION FOR THE TRANSFER OF MONTANA REAL ESTATE,
21 INCLUDING THE MARKET VALUE OF ANY PROPERTY TRANSFERRED TO THE TRANSFEROR, AND ANY LIABILITY ASSUMED OR
22 TAKEN SUBJECT TO THE SALES PRICE.

23 (7) "TRANSFEROR" MEANS ANY PERSON OR ENTITY DISPOSING OF MONTANA REAL ESTATE.

24
25 NEW SECTION. SECTION 43. WITHHOLDING REQUIRED ON SALE OR EXCHANGE OF MONTANA REAL ESTATE
26 -- RATE. EXCEPT AS PROVIDED IN [SECTION 44], THERE MUST BE WITHHELD FROM THE PROCEEDS FROM A SALE OR
27 EXCHANGE OF MONTANA REAL ESTATE AN AMOUNT EQUAL TO THE LESSER OF:

28 (1) 2.5% OF THE SALES PRICE OF THE MONTANA REAL ESTATE CONVEYED; OR

29 (2) THE AMOUNT OF THE TRANSFEROR'S CERTIFIED CALCULATED GAIN MULTIPLIED BY THE HIGHEST RATE OF TAX
30 PROVIDED FOR IN 15-30-103.

1
 2 NEW SECTION. SECTION 44. WITHHOLDING -- APPLICATION NOT REQUIRED. WITHHOLDING IS NOT REQUIRED
 3 ON THE TRANSFER OF MONTANA REAL ESTATE UNDER THE PROVISIONS OF [SECTION 43] IF:

4 (1) THE SALES PRICE OF THE MONTANA REAL ESTATE CONVEYED IS LESS THAN \$100,000;

5 (2) THE TRANSFER OCCURS:

6 (A) PURSUANT TO A POWER OF SALE UNDER A MORTGAGE OR DEED OF TRUST;

7 (B) AS THE RESULT OF A DECREE OF FORECLOSURE; OR

8 (C) BY DEED IN LIEU OF FORECLOSURE; OR

9 (3) THE TRANSFEROR ESTABLISHES THAT:

10 (A) THE TRANSFEROR IS AN INDIVIDUAL WHO IS A MONTANA RESIDENT;

11 (B) THE MONTANA REAL ESTATE BEING TRANSFERRED IS THE PRINCIPAL RESIDENCE OF THE TRANSFEROR OR
 12 WAS THE PRINCIPAL RESIDENCE OF A DECEDENT;

13 (C) THE LAST USE OF THE PROPERTY BEING TRANSFERRED WAS BY THE TRANSFEROR AS THE TRANSFEROR'S
 14 PRINCIPAL RESIDENCE;

15 (D) THE MONTANA REAL ESTATE HAS BEEN COMPULSORILY OR INVOLUNTARILY CONVERTED WITHIN THE MEANING
 16 OF SECTION 1033 OF THE INTERNAL REVENUE CODE, 26 U.S.C. 1033, AND THE TRANSFEROR INTENDS TO ACQUIRE
 17 PROPERTY SIMILAR OR RELATED IN SERVICE OR USE SO THAT THE GAIN IS NOT RECOGNIZED UNDER THE PROVISIONS OF
 18 SECTION 1033 OF THE INTERNAL REVENUE CODE, 26 U.S.C. 1033;

19 (E) THE MONTANA REAL ESTATE IS BEING RELINQUISHED IN AN EXCHANGE IN WHICH GAIN AND LOSS IS NOT
 20 RECOGNIZED PURSUANT TO SECTION 1031 OF THE INTERNAL REVENUE CODE, 26 U.S.C. 1031; OR

21 (F) THE TRANSFEROR IS A CORPORATION, A PASS-THROUGH ENTITY, OR A DISREGARDED ENTITY INCORPORATED
 22 OR ORGANIZED UNDER THE LAWS OF THE STATE OF MONTANA.

23
 24 NEW SECTION. SECTION 45. REPORTING AND REMITTANCE. (1) THE TRANSFEROR SHALL REPORT TO THE
 25 DEPARTMENT UNDER OATH, ON A FORM PRESCRIBED BY THE DEPARTMENT, ALL INFORMATION NECESSARY TO COMPUTE
 26 THE AMOUNT WITHHELD PURSUANT TO [SECTION 43] OR TO ESTABLISH THAT THE TRANSFEROR IS NOT REQUIRED TO
 27 WITHHOLD PURSUANT TO [SECTION 44].

28 (2) WITHIN 5 BUSINESS DAYS OF CLOSING ON THE SALE OR EXCHANGE OF MONTANA REAL ESTATE, THE
 29 TRANSFEROR SHALL FILE THE REPORT AND REMIT THE AMOUNT WITHHELD, IF ANY, TO THE DEPARTMENT.

30 (3) A COPY OF THE REPORT AND A COPY OF THE PAYMENT, IF ANY, FOR WITHHOLDING MUST BE ATTACHED TO

1 THE REALTY TRANSFER CERTIFICATE REQUIRED BY 15-7-305. THE COUNTY CLERK AND RECORDER MAY NOT RECORD ANY
 2 DEED OR OTHER INSTRUMENT TRANSFERRING TITLE TO MONTANA REAL ESTATE IF THE COPIES REQUIRED BY THIS SECTION
 3 ARE NOT PROVIDED.

4 (4) THE DEPARTMENT MAY NOT CHANGE ANY OWNERSHIP RECORDS USED FOR THE ASSESSMENT OR TAXATION
 5 OF MONTANA REAL ESTATE UNLESS THE COPIES REQUIRED BY SUBSECTION (3) ARE ATTACHED TO THE REALTY TRANSFER
 6 CERTIFICATE.

7 (5) ANY AMOUNT REQUIRED TO BE PAID PURSUANT TO [SECTION 43] AND REMITTED TO THE DEPARTMENT
 8 PURSUANT TO THIS SECTION IS CONSIDERED A PAYMENT ON THE ACCOUNT OF THE TRANSFEROR FOR THE PURPOSES OF
 9 INDIVIDUAL INCOME TAX UNDER TITLE 15, CHAPTER 30, OR FOR THE PURPOSES OF THE CORPORATION LICENSE TAX OR
 10 CORPORATION INCOME TAX UNDER TITLE 15, CHAPTER 31. IF THE TRANSFEROR IS A PASS-THROUGH ENTITY, THE
 11 PAYMENT IS CONSIDERED A PAYMENT ON THE ACCOUNT OF THE PASS-THROUGH ENTITY'S SHAREHOLDERS, PARTNERS,
 12 OR MEMBERS, AS APPLICABLE.

13
 14 NEW SECTION. SECTION 46. RULEMAKING AUTHORITY. THE DEPARTMENT SHALL ADOPT RULES TO
 15 IMPLEMENT AND ADMINISTER [SECTIONS 41 THROUGH 46].

16
 17 SECTION 47. SECTION 7-4-2623, MCA, IS AMENDED TO READ:

18 **"7-4-2623. Liability of clerk relating to duties as recorder.** A county clerk is liable to the party
 19 aggrieved for three times the amount of the damages that may result and is punishable as provided in this code
 20 if the county clerk to whom an instrument is delivered for record:

21 (1) neglects or refuses to record the instrument within reasonable time after receipt except when the
 22 information required by law to record the instrument is not provided;

23 (2) falsely records an instrument or records an instrument in any other manner than as directed in this
 24 part;

25 (3) neglects or refuses to keep in the clerk's office indexes that are required by this part or to make the
 26 proper entries in the indexes; or

27 (4) alters, changes, or obliterates any records deposited in the clerk's office or inserts any new matter
 28 in the records."
 29

30 SECTION 48. SECTION 7-6-1502, MCA, IS AMENDED TO READ:

1 **"7-6-1502. Resort community taxing authority -- specific delegation -- limitation.** As required by
 2 7-1-112 and subject to subsection (2) of this section, 7-6-1501 through 7-6-1507 specifically delegate to the
 3 electors of each respective resort community the power to authorize their municipality to impose a resort tax
 4 within the corporate boundary of the municipality as provided in 7-6-1501 through 7-6-1507.

5 (2) The power delegated in subsection (1) does not include the power to require an intermediary, as
 6 defined in 15-65-101 or 15-68-101, to collect or remit the resort tax."

7

8 **SECTION 49. SECTION 7-6-1505, MCA, IS AMENDED TO READ:**

9 **"7-6-1505. Resort tax administration -- intermediary not required to collect tax.** (1) In this section,
 10 "governing body" means:

- 11 (a) the governing body of a resort community;
 12 (b) if the resort tax has been approved by the electors of a resort area, the board of county
 13 commissioners; or
 14 (c) if the electors of the resort area establish a resort area district, the district board of directors.

15 (2) Not less than 30 days prior to the date that the resort tax becomes effective, the governing body shall
 16 enact an administrative ordinance governing the collection and reporting of the resort taxes. This administrative
 17 ordinance may be amended at any time as may be necessary to effectively administer the resort tax.

18 (3) The administrative ordinance must specify:

- 19 (a) the times that taxes collected by businesses are to be remitted to the governing body;
 20 (b) the office, officer, or employee of the governing body responsible for receiving and accounting for
 21 the resort tax receipts;
 22 (c) the office, officer, or employee of the governing body responsible for enforcing the collection of resort
 23 taxes and the methods and procedures to be used in enforcing the collection of resort taxes due; and
 24 (d) the penalties for failure to report taxes due, failure to remit taxes due, and violations of the
 25 administrative ordinance. The penalties may include:
 26 (i) criminal penalties not to exceed a fine of \$1,000 or 6 months' imprisonment, or both;
 27 (ii) civil penalties if the governing body prevails in a suit for the collection of resort taxes, not to exceed
 28 50% of the resort taxes found due plus the costs and attorney fees incurred by the governing body in the action;
 29 (iii) revocation of a county or municipal business license held by the offender; and
 30 (iv) any other penalties that may be applicable for violation of an ordinance.

- 1 (4) The administrative ordinance may include:
- 2 (a) further clarification and specificity in the categories of goods and services that are subject to the
- 3 resort tax consistent with 7-6-1503;
- 4 (b) authorization for business administration and prepayment discounts. The discount authorization may
- 5 allow each vendor and commercial establishment to:
- 6 (i) withhold up to 5% of the resort taxes collected to defray their costs for the administration of the tax
- 7 collection; or
- 8 (ii) receive a refund of up to 5% of the resort tax payment received from them by the governing body 10
- 9 days prior to the collection due date established by the administrative ordinance.
- 10 (c) other administrative details necessary for the efficient and effective administration of the tax.
- 11 (5) The governing body of a resort area or the board of county commissioners on behalf of a resort
- 12 district may not require an intermediary, as defined in 15-65-101 or 15-68-101, to collect or remit the resort area
- 13 tax."
- 14

15 **SECTION 50. SECTION 15-1-102, MCA, IS AMENDED TO READ:**

16 "15-1-102. **Person defined.** As used in this title, {except chapters 30 and 31}, unless the context

17 indicates otherwise, the term "person" means an individual, corporation, {domestic or foreign}, partnership,

18 disregarded entity as defined in 15-30-101, association, joint-stock company, or syndicate."

19

20 **Section 51.** Section 15-1-201, MCA, is amended to read:

21 "15-1-201. **Administration of revenue laws.** (1) (a) The department has general supervision over the

22 administration of the assessment and tax laws of the state, except Title 15, chapters 70 and 71, and over any

23 officers of municipal corporations having any duties to perform under the laws of this state relating to taxation to

24 the end that all assessments of property are made relatively just and equal, at true value, and in substantial

25 compliance with law. The department may make rules to supervise the administration of all revenue laws of the

26 state and assist in their enforcement.

27 (b) In the administration of any tax over which it has general supervision, the department may require

28 all individuals subject to the tax laws of the state to provide to the department the individual's social security

29 number, federal employee identification number, or taxpayer identification number.

30 ~~(b)~~(c) The department may contract with the U.S. department of the interior or any other federal agency

1 to perform federal royalty audits, collection services, and any other delegable functions related to mining
 2 operations on federal lands within the state pursuant to the Federal Oil and Gas Royalty Simplification and
 3 Fairness Act of 1996.

4 ~~(e)~~(d) The department shall adopt rules specifying which types of property within the several classes are
 5 considered comparable property as defined in 15-1-101.

6 ~~(d)~~(e) The department shall also adopt rules for determining the value-weighted mean sales assessment
 7 ratio for all commercial and industrial real property and improvements.

8 (2) The department shall confer with, advise, and direct officers of municipal corporations concerning
 9 their duties, with respect to taxation, under the laws of the state.

10 (3) The department ~~shall~~ MAY collect annually from the proper officers of the municipal corporations
 11 information, in a form prescribed by the department, about the assessment of property, collection of taxes,
 12 receipts from licenses and other sources, expenditure of public funds for all purposes, and other information as
 13 may be necessary and helpful in the work of the department. It is the duty of all public officers to fill out properly
 14 and return promptly to the department all forms and to aid the department in its work. The department ~~shall~~ MAY
 15 examine the records of all municipal corporations for purposes considered necessary or helpful.

16 (4) (A) UNLESS OTHERWISE PROVIDED BY LAW AND EXCEPT AS PROVIDED IN SUBSECTION (4)(B), UPON WRITTEN
 17 REQUEST OF THE DEPARTMENT, STATE AGENCIES SHALL PROVIDE TO THE DEPARTMENT RELEVANT TAXPAYER
 18 INFORMATION IN THEIR POSSESSION.

19 (B) UNLESS OTHERWISE PROVIDED BY LAW, CONFIDENTIAL CRIMINAL JUSTICE INFORMATION, AS DEFINED IN
 20 44-5-103, IN THE POSSESSION OF A STATE AGENCY THAT MAY BE EVIDENCE OF FRAUD PURSUANT TO 15-1-216 MUST BE
 21 PROVIDED TO THE APPROPRIATE DEPARTMENT PERSONNEL.

22 (5) UNLESS OTHERWISE PROVIDED BY LAW, THE DEPARTMENT MAY EXCHANGE UPDATED TAXPAYER NAME AND
 23 ADDRESS INFORMATION WITH OTHER STATE AGENCIES."

24

25 **SECTION 52. SECTION 15-1-216, MCA, IS AMENDED TO READ:**

26 **"15-1-216. Uniform penalty and interest assessments for violation of tax provisions -- applicability**
 27 **-- exceptions -- uniform provision for interest on overpayments.** (1) A person who fails to file a required tax
 28 return or other report with the department by the due date, including any extension of time, of the return or report
 29 must be assessed a late filing penalty of \$50 or the amount of the tax due, whichever is less.

30 (2) (a) (i) Except as provided in ~~subsection~~ subsections (2)(a)(ii) and (2)(b), a person who fails to pay

1 a tax when due must be assessed a late payment penalty of ~~4.2%~~ ~~4%~~ 0.5% a month or fraction of a month on
2 the unpaid tax. The penalty may not exceed 12% of the tax due.

3 (ii) A penalty under this subsection (2)(a) may not be imposed on a taxpayer subject to taxation under
4 15-30-103 if, subject to the conditions of 15-30-241(1)(a)(i), the taxpayer pays, when due, at least 90% of the tax
5 for the current year.

6 (b) A person who fails to pay a tax when due under chapter 30, part 2, chapter 53, chapter 65, or chapter
7 68 must be assessed a late payment penalty of 1.5% a month or fraction of a month on the unpaid tax. The
8 penalty may not exceed 15% of the tax due.

9 (c) The penalties provided in subsections (2)(a) and (2)(b) on delinquent taxes and on deficiency
10 assessments are computed from the original due date of the return until the tax is paid. The penalty accrues daily
11 on the unpaid tax from the original due date of the return regardless of whether the taxpayer has received an
12 extension of time for filing the return.

13 (d) (i) There is a penalty for substantial understatement of income tax liability under chapter 30, part 1,
14 for any tax year if the amount of the understatement for the tax year exceeds the greater of 10% of the tax
15 required to be shown on the return for the tax year or \$2,500.

16 (ii) There is a penalty for substantial understatement of tax liability under those taxes and matters subject
17 to 15-1-211(1)(a), except chapter 30, part 1, for any tax year if the amount of the understatement for the tax year
18 exceeds the lesser of 10% of the tax required to be shown on the return for the tax year or \$500,000.

19 (iii) Except as provided in subsection (2)(d)(iv), the penalty for substantial underpayment of tax liability
20 must be assessed at 20% of the portion of the underpayment to which this section applies.

21 (iv) The penalty for substantial underpayment of tax liability due to fraud, as defined in section 7206 of
22 the Internal Revenue Code, 26 U.S.C. 7206, must be assessed at 75% of the portion of the underpayment to
23 which this section applies.

24 ~~(e) The penalty imposed under subsection (2)(a) or (2)(b) accrues on the unpaid tax from the original~~
25 ~~due date of the return regardless of whether the taxpayer has received an extension of time for filing a return.~~

26 (3) A person who purposely or knowingly, as those terms are defined in 45-2-101, or fraudulently, as
27 described in section 7206 of the Internal Revenue Code, 26 U.S.C. 7206, fails to file a return when due or fails
28 to file a return within 60 days after receiving written notice from the department that a return must be filed is liable
29 for an additional penalty of not less than ~~\$1,000 or more than \$10,000~~ the greater of \$1,000 or 15% of the tax
30 liability a month. The penalty may not exceed 75% of the tax liability. The department may bring an action in the

1 name of the state to recover the penalty and any delinquent taxes.

2 (4) (a) An individual who purposely or knowingly files, renders, or signs a false or fraudulent return or
 3 purposely or knowingly supplies false or fraudulent information with respect to a return, report, or investigation
 4 is guilty of a felony and upon conviction shall be fined not more than \$20,000, imprisoned for not more than 5
 5 years, or both.

6 (b) A corporation, partnership, or other entity, an officer or employee of a corporation, or a member or
 7 employee of a partnership or other entity that purposely or knowingly files, renders, or signs a false or fraudulent
 8 return or purposely or knowingly supplies false or fraudulent information with respect to a return, report, or
 9 investigation is guilty of a felony and upon conviction shall be fined not more than \$50,000, imprisoned for not
 10 more than 5 years, or both.

11 ~~(4)(5)~~ (a) Interest on taxes not paid when due must be assessed by the department. The department
 12 shall determine the interest rates established under subsection ~~(4)(a)(i)~~ (5)(a)(i) for each calendar year by rule
 13 subject to the conditions of this subsection ~~(4)(a)~~ (5)(a). Interest rates on taxes not paid when due for a calendar
 14 year are as follows:

15 (i) For individual income taxes not paid when due, including delinquent taxes and deficiency
 16 assessments, the interest rate is equal to the underpayment rate for individual taxpayers established by the
 17 secretary of the United States department of the treasury pursuant to section 6621 of the Internal Revenue Code,
 18 26 U.S.C. 6621, for the fourth quarter of the preceding year ~~or 8%, whichever is greater.~~

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

21 (b) Interest on delinquent taxes and on deficiency assessments is computed from the original due date
 22 of the return until the tax is paid. Interest accrues daily on the unpaid tax from the original due date of the return
 23 regardless of whether the taxpayer has received an extension of time for filing the return.

24 ~~(5)(6)~~ (a) Except as provided in subsection ~~(5)(b)~~ (6)(b), this section applies to taxes, fees, and other
 25 assessments imposed under Titles 15 and 16 [and 85-2-276].

26 (b) This section does not apply to:

27 (i) property taxes; or

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

30 ~~(6)(7)~~ Any changes to interest rates apply to any current outstanding tax balance, regardless of the rate

1 in effect at the time the tax accrued.

2 ~~(7)(8)~~ Penalty and interest must be calculated and assessed commencing with the due date of the return.

3 ~~(8)(9)~~ Deficiency assessments are due and payable 30 days from the date of the deficiency assessment.

4 ~~(9)(10)~~ Interest allowed for the overpayment of taxes or fees is the same rate as is charged for unpaid
5 or delinquent taxes. For the purposes of this subsection, interest charged for unpaid or delinquent taxes is the
6 interest rate determined in subsection ~~(4)(a)(i)~~ (5)(a)(i) or (5)(a)(ii), as applicable. (Bracketed language in
7 subsection ~~(5)(a)~~ (6)(a) terminates June 30, 2020--sec. 18, Ch. 288, L. 2005.)"

8

9 **SECTION 53. SECTION 15-1-706, MCA, IS AMENDED TO READ:**

10 **"15-1-706. Execution upon warrant.** (1) Upon receipt of a copy of the filed warrant and notice from the
11 department that the applicable hearing provisions have been complied with, the sheriff or agent authorized to
12 collect the tax shall proceed to execute upon the warrant in the same manner as prescribed for execution upon
13 a judgment. The sheriff is entitled to fees or compensation as provided by law incurred in executing upon the
14 judgment. The amount of the fees or compensation must be added to the amount of the warrant.

15 (2) A notice of levy may be made by electronic means ~~of a~~ or by certified letter by an agent authorized
16 to collect the tax. An agent is not entitled to any fee or compensation in excess of actual expenses incurred in
17 enforcing the warrant.

18 (3) When issued, a notice of levy has the same force and effect as a writ of execution. A levy upon
19 earnings continues in effect for 120 days or until the judgment is satisfied, whichever occurs first. The levy applies
20 ~~to all pay periods beginning during the 120-day period~~ earnings due on or after the date of service of the notice
21 of levy through the expiration of the levy.

22 (4) A sheriff or agent shall return a warrant, along with any funds collected, within ~~90~~ 120 days of the date
23 of the warrant.

24 (5) If the warrant is returned not satisfied in full, the department has the same remedies to collect the
25 deficiency as are available for any civil judgment."

26

27 **SECTION 54. SECTION 15-6-135, MCA, IS AMENDED TO READ:**

28 **"15-6-135. Class five property -- description -- taxable percentage.** (1) Class five property includes:

29 (a) all property used and owned by cooperative rural electrical and cooperative rural telephone
30 associations organized under the laws of Montana, except property owned by cooperative organizations

- 1 described in 15-6-137(1)(a);
- 2 (b) air and water pollution control equipment as defined in this section;
- 3 (c) new industrial property as defined in this section;
- 4 (d) any personal or real property used primarily in the production of gasohol during construction and for
- 5 the first 3 years of its operation;
- 6 (e) all land and improvements and all personal property owned by a research and development firm,
- 7 provided that the property is actively devoted to research and development;
- 8 (f) machinery and equipment used in electrolytic reduction facilities;
- 9 (g) all property used and owned by persons, firms, corporations, or other organizations that are engaged
- 10 in the business of furnishing telecommunications services exclusively to rural areas or to rural areas and cities
- 11 and towns of ~~1,200~~ 5,000 permanent residents or less.
- 12 (2) (a) "Air and water pollution control equipment" means that portion of identifiable property, facilities,
- 13 machinery, devices, or equipment designed, constructed, under construction, or operated for removing, disposing,
- 14 abating, treating, eliminating, destroying, neutralizing, stabilizing, rendering inert, storing, or preventing the
- 15 creation of air or water pollutants that, except for the use of the item, would be released to the environment.
- 16 Reduction in pollutants obtained through operational techniques without specific facilities, machinery, devices,
- 17 or equipment is not eligible for certification under this section.
- 18 (b) Requests for certification must be made on forms available from the department of revenue.
- 19 Certification may not be granted unless the applicant is in substantial compliance with all applicable rules, laws,
- 20 orders, or permit conditions. Certification remains in effect only as long as substantial compliance continues.
- 21 (c) The department of environmental quality shall promulgate rules specifying procedures, including
- 22 timeframes for certification application, and definitions necessary to identify air and water pollution control
- 23 equipment for certification and compliance. The department of revenue shall promulgate rules pertaining to the
- 24 valuation of qualifying air and water pollution control equipment. The department of environmental quality shall
- 25 identify and track compliance in the use of certified air and water pollution control equipment and report
- 26 continuous acts or patterns of noncompliance at a facility to the department of revenue. Casual or isolated
- 27 incidents of noncompliance at a facility do not affect certification.
- 28 (d) A person may appeal the certification, classification, and valuation of the property to the state tax
- 29 appeal board. Appeals on the property certification must name the department of environmental quality as the
- 30 respondent, and appeals on the classification or valuation of the equipment must name the department of

1 revenue as the respondent.

2 (3) (a) "New industrial property" means any new industrial plant, including land, buildings, machinery,
3 and fixtures, used by new industries during the first 3 years of their operation. The property may not have been
4 assessed within the state of Montana prior to July 1, 1961.

5 (b) New industrial property does not include:

6 (i) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades,
7 or professions unless the business or profession meets the requirements of subsection (4)(b)(v);

8 (ii) a plant that will create adverse impact on existing state, county, or municipal services; or

9 (iii) property used or employed in an industrial plant that has been in operation in this state for 3 years
10 or longer.

11 (4) Fifty percent of the market value of new rural telecommunication property is exempt from tax for the
12 tax year the property is placed in service and for the nine succeeding tax years. As used in this subsection, "new
13 rural telecommunication property" means property included in subsection (1)(g) that is placed in service after
14 January 1,2007.

15 ~~(4)~~(5) (a) "New industry" means any person, corporation, firm, partnership, association, or other group
16 that establishes a new plant in Montana for the operation of a new industrial endeavor, as distinguished from a
17 mere expansion, reorganization, or merger of an existing industry.

18 (b) New industry includes only those industries that:

19 (i) manufacture, mill, mine, produce, process, or fabricate materials;

20 (ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state
21 are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial
22 products or materials;

23 (iii) engage in the mechanical or chemical transformation of materials or substances into new products
24 in the manner defined as manufacturing in the North American Industry Classification System Manual prepared
25 by the United States office of management and budget;

26 (iv) engage in the transportation, warehousing, or distribution of commercial products or materials if 50%
27 or more of an industry's gross sales or receipts are earned from outside the state; or

28 (v) earn 50% or more of their annual gross income from out-of-state sales.

29 ~~(5)~~(6) Class five property is taxed at 3% of its market value."
30

1 **SECTION 55. SECTION 15-6-138, MCA, IS AMENDED TO READ:**

2 **"15-6-138. Class eight property -- description -- taxable percentage.** (1) Class eight property
3 includes:

4 (a) all agricultural implements and equipment that are not exempt under 15-6-207 or 15-6-220;

5 (b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-219, and supplies
6 except those included in class five;

7 (c) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage
8 tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication
9 towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and similar equipment
10 that is skidable, portable, or movable, tools that are not exempt under 15-6-219, and supplies except those
11 included in class five;

12 (d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and
13 personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors
14 as provided in 15-6-220, and supplies except those included in class five;

15 (e) all goods and equipment that are intended for rent or lease, except goods and equipment that are
16 specifically included and taxed in another class;

17 (f) special mobile equipment as defined in 61-1-101;

18 (g) furniture, fixtures, and equipment, except that specifically included in another class, used in
19 commercial establishments as defined in this section;

20 (h) x-ray and medical and dental equipment;

21 (i) citizens' band radios and mobile telephones;

22 (j) radio and television broadcasting and transmitting equipment;

23 (k) cable television systems;

24 (l) coal and ore haulers;

25 (m) theater projectors and sound equipment; and

26 (n) all other property that is not included in any other class in this part, except that property that is subject
27 to a fee in lieu of a property tax.

28 (2) As used in this section, "coal and ore haulers" means nonhighway vehicles that exceed 18,000
29 pounds an axle and that are primarily designed and used to transport coal, ore, or other earthen material in a
30 mining or quarrying environment.

1 (3) "Commercial establishment" includes any hotel, motel, office, petroleum marketing station, or service,
2 wholesale, retail, or food-handling business.

3 (4) Class eight property is taxed at 3% of its market value.

4 (5) (a) The first \$80,000 of market value of class eight property of a person owned by an individual or
5 business entity that owns an aggregate of \$20,000 or less in market value of class eight property is exempt from
6 taxation.

7 (b) (i) The department shall, by rule, establish reporting requirements that would not allow multiple
8 business identities to be formed to obtain multiple exemption thresholds for what are functionally single
9 businesses. The rules may require individual and taxpayer identification numbers for pass-through entities, as
10 defined in 15-30-101, and their owners, partners, and officers to allow the department to track exemptions through
11 the entities.

12 (ii) Whenever one member of a firm or one of the proper officers of a corporation has made a statement
13 showing the property of the firm or corporation, another member of the firm or another officer is not required to
14 include the property in that person's statement but the statement must show the name of the person or officer
15 who made the statement in which the property is included.

16 (iii) The fact that a statement is not required or that a person has not made a statement, under oath or
17 otherwise, does not relieve the person's property from taxation."

18

19 **SECTION 56. SECTION 15-6-219, MCA, IS AMENDED TO READ:**

20 **"15-6-219. Personal and other property exemptions.** The following categories of property are exempt
21 from taxation:

22 (1) items of personal property with a market value of less than \$100;

23 ~~(+)~~(2) harness, saddlery, and other tack equipment;

24 ~~(2)~~(3) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily
25 hand-held and that are used to:

26 (a) construct, repair, and maintain improvements to real property; or

27 (b) repair and maintain machinery, equipment, appliances, or other personal property;

28 ~~(3)~~(4) all household goods and furniture, including but not limited to clocks, musical instruments, sewing
29 machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes
30 or for furnishing or equipping the family residence;

1 ~~(4)~~(5) a bicycle, as defined in 61-8-102, used by the owner for personal transportation purposes;
 2 ~~(5)~~(6) items of personal property intended for rent or lease in the ordinary course of business if each item
 3 of personal property satisfies all of the following:
 4 (a) the acquired cost of the personal property is less than \$15,000;
 5 (b) the personal property is owned by a business whose primary business income is from rental or lease
 6 of personal property to individuals and no one customer of the business accounts for more than 10% of the total
 7 rentals or leases during a calendar year; and
 8 (c) the lease of the personal property is generally on an hourly, daily, or weekly basis;
 9 ~~(6)~~(7) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture,
 10 launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and
 11 launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that
 12 are directly used for space vehicle design, manufacture, launch, repair, and maintenance; and
 13 ~~(7)~~(8) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in
 14 33-25-105."

15
 16 **SECTION 57. SECTION 15-23-101, MCA, IS AMENDED TO READ:**
 17 **"15-23-101. Properties centrally assessed.** The department shall centrally assess each year:
 18 (1) the railroad transportation property of railroads and railroad car companies operating in more than
 19 one county in the state or more than one state;
 20 (2) property owned by a corporation or other person operating a single and continuous property operated
 21 in more than one county or more than one state, including but not limited to telegraph, telephone (including
 22 commercial mobile radio service as defined in 47 CFR 20.3), microwave, and electric power or transmission lines;
 23 natural gas or oil pipelines; canals, ditches, flumes, or like properties and including, if congress passes legislation
 24 that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical
 25 energy, property constructed, owned, or operated by a public agency created by congress to transmit or distribute
 26 electrical energy produced at privately owned generating facilities, not including rural electric cooperatives;
 27 (3) all property of scheduled airlines;
 28 (4) the net proceeds of mines, except bentonite mines;
 29 (5) the gross proceeds of coal mines; and
 30 (6) property described in subsections (1) and (2) that is subject to the provisions of Title 15, chapter 24,

1 part 12."

2

3 **SECTION 58. SECTION 15-30-101, MCA, IS AMENDED TO READ:**

4 **"15-30-101. Definitions.** For the purpose of this chapter, unless otherwise required by the context, the
5 following definitions apply:

6 (1) "Base year structure" means the following elements of the income tax structure:

7 (a) the tax brackets established in 15-30-103, but unadjusted by 15-30-103(2), in effect on June 30 of
8 the ~~taxable tax~~ year;

9 (b) the exemptions contained in 15-30-112, but unadjusted by 15-30-112(6), in effect on June 30 of the
10 ~~taxable tax~~ year;

11 (c) the maximum standard deduction provided in 15-30-122, but unadjusted by 15-30-122(2), in effect
12 on June 30 of the ~~taxable tax~~ year.

13 (2) "Consumer price index" means the consumer price index, United States city average, for all items,
14 for all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor statistics
15 of the U.S. department of labor.

16 (3) "Corporation" or "C. corporation" means a corporation, limited liability company, or other entity:

17 (a) that is treated as an association for federal income tax purposes;

18 (b) for which a valid election under section 1362 of the Internal Revenue Code, {26 U.S.C. 1362} is not
19 in effect; and

20 (c) that is not a disregarded entity.

21 (4) "Department" means the department of revenue.

22 (5) "Disregarded entity" means ~~a business entity~~:

23 (a) a business entity that is disregarded as an entity separate from its owner for federal tax purposes,
24 as provided in United States treasury regulations 301.7701-2 or 301.7701-3, 26 CFR 301.7701-2 or 26 CFR
25 301.7701-3, or as those regulations may be labeled or amended; ~~or~~

26 (b) ~~that is~~ a qualified subchapter S. subsidiary that is not treated as a separate corporation, as provided
27 in section 1361(b)(3) of the Internal Revenue Code, {26 U.S.C. 1361(b)(3)};

28 (c) a grantor trust; or

29 (d) a qualified real estate investment trust subsidiary that is not treated as a separate corporation as
30 provided in section 856 of the Internal Revenue Code, 26 U.S.C. 856.

1 (6) "Dividend" means:

2 (a) any distribution made by a C. corporation out of its earnings and profits to its shareholders or
3 members, whether in cash or in other property or in stock of the corporation, other than stock dividends; and

4 (b) any distribution made by an S. corporation treated as a dividend for federal income tax purposes.

5 (7) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person,
6 whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

7 (8) "Foreign C. corporation" means a corporation that is not engaged in or doing business in Montana,
8 as provided in 15-31-101.

9 (9) "Foreign government" means any jurisdiction other than the one embraced within the United States,
10 its territories, and its possessions.

11 (10) "Grantor trust" means a trust any portion for which the grantor or another person is treated as owner
12 as provided in Chapter 1, Subchapter J, Part I, Subpart E, of the Internal Revenue Code, 26 U.S.C. 671, et seq.

13 ~~(10)~~(11) "Gross income" means the taxpayer's gross income for federal income tax purposes as defined
14 in section 61 of the Internal Revenue Code, {26 U.S.C. 61} or as that section may be labeled or amended,
15 excluding unemployment compensation included in federal gross income under the provisions of section 85 of
16 the Internal Revenue Code, {26 U.S.C. 85} as amended.

17 ~~(11)~~(12) "Inflation factor" means a number determined for each tax year by dividing the consumer price
18 index for June of the tax year by the consumer price index for June 2005.

19 ~~(12)~~(13) "Information agents" includes all individuals and entities acting in whatever capacity, including
20 lessees or mortgagors of real or personal property, fiduciaries, brokers, real estate brokers, employers, and all
21 officers and employees of the state or of any municipal corporation or political subdivision of the state, having the
22 control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities,
23 compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits,
24 and income with respect to which any person or fiduciary is taxable under this chapter.

25 ~~(13)~~(14) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, or as it may
26 be labeled or further amended. References to specific provisions of the Internal Revenue Code mean those
27 provisions as they may be otherwise labeled or further amended.

28 ~~(14)~~(15) "Knowingly" is as defined in 45-2-101.

29 ~~(15)~~(16) "Limited liability company" means a limited liability company, domestic limited liability company,
30 or a foreign limited liability company as defined in 35-8-102.

- 1 ~~(16)~~(17) "Limited liability partnership" means a limited liability partnership as defined in 35-10-102.
- 2 ~~(17)~~(18) "Lottery winnings" means income paid either in lump sum or in periodic payments to:
- 3 (a) a resident taxpayer on a lottery ticket; or
- 4 (b) a nonresident taxpayer on a lottery ticket purchased in Montana.
- 5 ~~(18)~~(19) (a) "Montana source income" means:
- 6 (i) wages, salary, tips, and other compensation for services performed in the state or while a resident
- 7 of the state;
- 8 (ii) gain attributable to the sale or other transfer of tangible property located in the state, sold or otherwise
- 9 transferred while a resident of the state, or used or held in connection with a trade, business, or occupation
- 10 carried on in the state;
- 11 (iii) gain attributable to the sale or other transfer of intangible property received or accrued while a
- 12 resident of the state;
- 13 (iv) interest received or accrued while a resident of the state or from an installment sale of real property
- 14 or tangible commercial or business personal property located in the state;
- 15 (v) dividends received or accrued while a resident of the state;
- 16 (vi) net income or loss derived from a trade, business, profession, or occupation carried on in the state
- 17 or while a resident of the state;
- 18 (vii) net income or loss derived from farming activities carried on in the state or while a resident of the
- 19 state;
- 20 (viii) net rents from real property and tangible personal property located in the state or received or
- 21 accrued while a resident of the state;
- 22 (ix) net royalties from real property and from tangible real property to the extent the property is used in
- 23 the state or the net royalties are received or accrued while a resident of the state. The extent of use in the state
- 24 is determined by multiplying the royalties by a fraction, the numerator of which is the number of days of physical
- 25 location of the property in the state during the royalty period in the tax year and the denominator of which is the
- 26 number of days of physical location of the property everywhere during all royalty periods in the tax year. If the
- 27 physical location is unknown or unascertainable by the taxpayer, the property is considered used in the state in
- 28 which it was located at the time the person paying the royalty obtained possession.
- 29 (x) patent royalties to the extent the person paying them employs the patent in production, fabrication,
- 30 manufacturing, or other processing in the state, a patented product is produced in the state, or the royalties are

1 received or accrued while a resident of the state;

2 (xi) net copyright royalties to the extent printing or other publication originates in the state or the royalties
3 are received or accrued while a resident of the state;

4 (xii) partnership income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit:
5 (A) derived from a trade, business, occupation, or profession carried on in the state;
6 (B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of
7 property located in the state; or
8 (C) taken into account while a resident of the state;

9 (xiii) an S. corporation's separately and nonseparately stated income, gain, loss, deduction, or credit or
10 item of income, gain, loss, deduction, or credit:
11 (A) derived from a trade, business, occupation, or profession carried on in the state;
12 (B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of
13 property located in the state; or
14 (C) taken into account while a resident of the state;

15 (xiv) social security benefits received or accrued while a resident of the state;
16 (xv) taxable individual retirement account distributions, annuities, pensions, and other retirement benefits
17 received while a resident of the state; and
18 (xvi) any other income attributable to the state, including but not limited to lottery winnings, state and
19 federal tax refunds, nonemployee compensation, recapture of tax benefits, and capital loss addbacks.

20 (b) The term does not include:
21 (i) compensation for military service of members of the armed services of the United States who are not
22 Montana residents and who are residing in Montana solely by reason of compliance with military orders and does
23 not include income derived from their personal property located in the state except with respect to personal
24 property used in or arising from a trade or business carried on in Montana; or
25 (ii) interest paid on loans held by out-of-state financial institutions recognized as such in the state of their
26 domicile, secured by mortgages, trust indentures, or other security interests on real or personal property located
27 in the state, if the loan is originated by a lender doing business in Montana and assigned out-of-state and there
28 is no activity conducted by the out-of-state lender in Montana except periodic inspection of the security.

29 ~~(19)~~(20) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by
30 this chapter.

1 ~~(20)~~(21) "Nonresident" means a natural person who is not a resident.

2 ~~(21)~~(22) "Paid", for the purposes of the deductions and credits under this chapter, means paid or accrued
3 or paid or incurred, and the terms "paid or accrued" and "paid or incurred" must be construed according to the
4 method of accounting upon the basis of which the taxable income is computed under this chapter.

5 ~~(22)~~(23) "Partner" means a member of a partnership or a manager or member of any other entity, if
6 treated as a partner for federal income tax purposes.

7 ~~(23)~~(24) "Partnership" means a general or limited partnership, limited liability partnership, limited liability
8 company, or other entity, if treated as a partnership for federal income tax purposes.

9 ~~(24)~~(25) "Pass-through entity" means a partnership, an S. corporation, or a disregarded entity.

10 ~~(25)~~(26) "Pension and annuity income" means:

11 (a) systematic payments of a definitely determinable amount from a qualified pension plan, as that term
12 is used in section 401 of the Internal Revenue Code, ~~(26 U.S.C. 401)~~, or systematic payments received as the
13 result of contributions made to a qualified pension plan that are paid to the recipient or recipient's beneficiary upon
14 the cessation of employment;

15 (b) payments received as the result of past service and cessation of employment in the uniformed
16 services of the United States;

17 (c) lump-sum distributions from pension or profit-sharing plans to the extent that the distributions are
18 included in federal adjusted gross income;

19 (d) distributions from individual retirement, deferred compensation, and self-employed retirement plans
20 recognized under sections 401 through 408 of the Internal Revenue Code, ~~(26 U.S.C. 401 through 408)~~, to the
21 extent that the distributions are not considered to be premature distributions for federal income tax purposes; or

22 (e) amounts received from fully matured, privately purchased annuity contracts after cessation of regular
23 employment.

24 ~~(26)~~(27) "Purposely" is as defined in 45-2-101.

25 ~~(27)~~(28) "Real estate investment trust" means a real estate investment trust as defined in section 856 of the
26 Internal Revenue Code, 26 U.S.C. 856.

27 ~~(28)~~(29) "Received", for the purpose of computation of taxable income under this chapter, means
28 received or accrued, and the term "received or accrued" must be construed according to the method of
29 accounting upon the basis of which the taxable income is computed under this chapter.

30 ~~(29)~~(30) "Resident" applies only to natural persons and includes, for the purpose of determining liability

1 to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the
 2 state of Montana and any other person who maintains a permanent place of abode within the state even though
 3 temporarily absent from the state and who has not established a residence elsewhere.

4 ~~(29)~~(31) "S. corporation" means an incorporated entity for which a valid election under section 1362 of
 5 the Internal Revenue Code, {26 U.S.C. 1362}, is in effect.

6 ~~(30)~~(32) "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in
 7 proportion to their previous holdings.

8 ~~(31)~~(33) "Tax year" means the taxpayer's taxable year for federal income tax purposes.

9 ~~(32)~~(34) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and
 10 exemptions provided for in this chapter.

11 ~~(33)~~(35) "Taxpayer" includes any person, entity, or fiduciary, resident or nonresident, subject to a tax or
 12 other obligation imposed by this chapter and unless otherwise specifically provided does not include a C.
 13 corporation."

14

15 **SECTION 59. SECTION 15-30-111, MCA, IS AMENDED TO READ:**

16 **"15-30-111. Adjusted gross income.** (1) Adjusted gross income is the taxpayer's federal adjusted gross
 17 income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62, and in addition includes the
 18 following:

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

22 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C.
 23 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

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

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

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

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

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

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

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

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

12 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C.
 13 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);

14 (b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including
 15 \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

16 (c) (i) except as provided in subsection (2)(c)(ii), the first \$3,600 of all pension and annuity income
 17 received as defined in 15-30-101;

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

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

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

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

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

28 (f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section
 29 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January
 30 1, 1983, received by ~~persons~~ a person for rendering services ~~rendered by them~~ to patrons of premises licensed

- 1 to provide food, beverage, or lodging;
- 2 (g) all benefits received under the workers' compensation laws;
- 3 (h) all health insurance premiums paid by an employer for an employee if attributed as income to the
4 employee under federal law;
- 5 (i) all money received because of a settlement agreement or judgment in a lawsuit brought against a
6 manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";
- 7 (j) principal and income in a medical care savings account established in accordance with 15-61-201
8 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the taxpayer or a
9 dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;
- 10 (k) principal and income in a first-time home buyer savings account established in accordance with
11 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase
12 of a single-family residence;
- 13 (l) contributions withdrawn from a family education savings account or earnings withdrawn from a family
14 education savings account for qualified higher education expenses, as defined in 15-62-103, of a designated
15 beneficiary;
- 16 (m) the recovery during the tax year of any amount deducted in any prior tax year to the extent that the
17 recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;
- 18 (n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of
19 the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution
20 of the same estate or trust for the same tax period;
- 21 (o) deposits, not exceeding the amount set forth in 15-30-603, deposited in a Montana farm and ranch
22 risk management account, as provided in 15-30-601 through 15-30-605, in any tax year for which a deduction
23 is not provided for federal income tax purposes;
- 24 (p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant
25 to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the child and
26 taxpayer meet the filing requirements in 15-30-142.
- 27 (q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or
28 withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303; ~~and~~
- 29 (r) that part of the refundable credit provided in 33-22-2006 that reduces Montana tax below zero; and
- 30 (s) dividends received from a real estate investment trust to the extent they are taxed in Montana as

1 provided in 15-31-113 and 15-31-114.

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) 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 ~~(7) Married taxpayers who file a joint federal return and who make an election on the federal return to~~
28 ~~defer income ratably for 4 tax years because of a conversion from an IRA other than a Roth IRA to a Roth IRA,~~
29 ~~pursuant to section 408A(d)(3) of the Internal Revenue Code, 26 U.S.C. 408A(d)(3), may file separate Montana~~
30 ~~income tax returns to defer the full taxable conversion amount from Montana adjusted gross income for the same~~

1 ~~time period. The deferred amount must be attributed to the taxpayer making the conversion.~~

2 ~~(8)(7)~~ An individual who contributes to one or more accounts established under the Montana family
3 education savings program may reduce adjusted gross income by the lesser of \$3,000 or the amount of the
4 contribution. In the case of married taxpayers, each spouse is entitled to a reduction, not in excess of \$3,000, for
5 the spouses' contributions to the accounts. Spouses may jointly elect to treat half of the total contributions made
6 by the spouses as being made by each spouse. The reduction in adjusted gross income under this subsection
7 applies only with respect to contributions to an account of which the account owner, as defined in 15-62-103, is
8 the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a
9 Montana resident. The provisions of subsection (1)(e) do not apply with respect to withdrawals of contributions
10 that reduced adjusted gross income.

11 ~~(9)(8)~~ (a) A taxpayer may exclude the amount of the loan payment received pursuant to subsection
12 ~~(9)(a)(iv)~~ (8)(a)(iv), not to exceed \$5,000, from the taxpayer's adjusted gross income if the taxpayer:

- 13 (i) is a health care professional licensed in Montana as provided in Title 37;
14 (ii) is serving a significant portion of a designated geographic area, special population, or facility
15 population in a federally designated health professional shortage area, a medically underserved area or
16 population, or a federal nursing shortage county as determined by the secretary of health and human services
17 or by the governor;
18 (iii) has had a student loan incurred as a result of health-related education; and
19 (iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan repayment
20 program described in subsection ~~(9)(b)~~ (8)(b) as an incentive to practice in Montana.

21 (b) For the purposes of subsection ~~(9)(a)~~ (9)(a), a loan repayment program includes a federal, state, or
22 qualified private program. A qualified private loan repayment program includes a licensed health care facility, as
23 defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the facility
24 as a licensed health care professional. (Subsection (2)(f) terminates on occurrence of contingency--sec. 3, Ch.
25 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency--sec. 9, Ch. 262, L. 2001.)"

26
27 **Section 60.** Section 15-30-112, MCA, is amended to read:
28 **"15-30-112. Exemptions.** (1) Except as provided in subsection (6), in the case of an individual, the
29 exemptions provided by subsections (2) through (5) must be allowed as deductions in computing taxable income.
30 (2) (a) An exemption of ~~\$1,900~~ ~~\$2,560~~ \$1,900 is allowed for all taxpayers.

1 (b) An additional exemption of ~~\$1,900~~ ~~\$2,560~~ \$1,900 is allowed for the spouse of the taxpayer if a
 2 separate return is made by the taxpayer and if the spouse, for the calendar year in which the tax year of the
 3 taxpayer begins, does not have gross income and is not the dependent of another taxpayer.

4 (3) (a) An additional exemption of ~~\$1,900~~ ~~\$2,560~~ \$1,900 is allowed for the taxpayer if the taxpayer has
 5 attained the age of 65 before the close of the taxpayer's tax year.

6 (b) An additional exemption of ~~\$1,900~~ ~~\$2,560~~ \$1,900 is allowed for the spouse of the taxpayer if a
 7 separate return is made by the taxpayer and if the spouse has attained the age of 65 before the close of the tax
 8 year and, for the calendar year in which the tax year of the taxpayer begins, does not have gross income and is
 9 not the dependent of another taxpayer.

10 (4) (a) An additional exemption of ~~\$1,900~~ ~~\$2,560~~ \$1,900 is allowed for the taxpayer if the taxpayer is
 11 blind at the close of the taxpayer's tax year.

12 (b) An additional exemption of ~~\$1,900~~ ~~\$2,560~~ \$1,900 is allowed for the spouse of the taxpayer if a
 13 separate return is made by the taxpayer and if the spouse is blind and, for the calendar year in which the tax year
 14 of the taxpayer begins, does not have gross income and is not the dependent of another taxpayer. For the
 15 purposes of this subsection (4)(b), the determination of whether the spouse is blind must be made as of the close
 16 of the tax year of the taxpayer, except that if the spouse dies during the tax year, the determination must be made
 17 as of the time of death.

18 (c) For purposes of this subsection (4), an individual is blind only if the person's central visual acuity does
 19 not exceed 20/200 in the better eye with correcting lenses or if visual acuity is greater than 20/200 but is
 20 accompanied by a limitation in the fields of vision to an extent that the widest diameter of the visual field subtends
 21 an angle no greater than 20 degrees.

22 (5) (a) An exemption of ~~\$1,900~~ ~~\$2,560~~ \$1,900 is allowed for each dependent:

23 (i) whose gross income for the calendar year in which the tax year of the taxpayer begins is less than
 24 ~~\$800~~ THE EXEMPTION AMOUNT PROVIDED IN SUBSECTION (2)(A); or

25 (ii) who is a QUALIFYING child of the taxpayer and who:

26 ~~— (A) has not attained the age of 19 years at the close of the calendar year in which the tax year of the~~
 27 ~~taxpayer begins; or~~

28 ~~— (B) is~~ AS DEFINED IN SECTION 152 OF THE INTERNAL REVENUE CODE, 26 U.S.C. 152, INCLUDING a student
 29 AS DEFINED IN THAT SECTION.

30 (b) An exemption is not allowed under this subsection for a dependent who has made a joint return with

1 the dependent's spouse for the tax year beginning in the calendar year in which the tax year of the taxpayer
2 begins.

3 ~~—— (c) For purposes of subsection (5)(a)(ii), the term "child" means an individual who is a son, stepson,
4 daughter, or stepdaughter of the taxpayer.~~

5 ~~—— (d) For purposes of subsection (5)(a)(ii)(B), the term "student" means an individual who, during each of
6 5 calendar months during the calendar year in which the tax year of the taxpayer begins:~~

7 ~~—— (i) is a full-time student at an educational institution; or~~

8 ~~—— (ii) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited
9 agent of an educational institution or of a state or political subdivision of a state. For purposes of this subsection
10 (5)(d)(ii), the term "educational institution" means only an educational institution that normally maintains a regular
11 faculty and curriculum and normally has a regularly organized body of students in attendance at the place where
12 its educational activities are carried on.~~

13 (6) The department, by November 1 of each year, shall multiply all the exemptions provided in this
14 section by the inflation factor for that tax year and round the product to the nearest \$10. The resulting adjusted
15 exemptions are effective for that tax year and must be used in calculating the tax imposed in 15-30-103."

16

17 ~~—— **Section 4.** Section 15-30-142, MCA, is amended to read:~~

18 ~~—— **"15-30-142. Returns and payment of tax -- penalty and interest -- refunds -- credits.** (1) For both
19 resident and nonresident taxpayers, each single individual and each married individual not filing a joint return with
20 a spouse and having a gross income for the tax year of more than \$3,560, as adjusted under the provisions of
21 subsection (6), and married individuals not filing separate returns and having a combined gross income for the
22 tax year of more than \$7,120, as adjusted under the provisions of subsection (6), are liable for a return to be filed
23 on forms and according to rules that the department may prescribe. The gross income amounts referred to in the
24 preceding sentence must be increased by \$1,900 \$2,560, as adjusted under the provisions of 15-30-112(6), for
25 each additional personal exemption allowance that the taxpayer is entitled to claim for the taxpayer and the
26 taxpayer's spouse under 15-30-112(3) and (4).~~

27 ~~—— (2) In accordance with instructions set forth by the department, each taxpayer who is married and living
28 with husband or wife and is required to file a return may, at the taxpayer's option, file a joint return with husband
29 or wife even though one of the spouses has neither gross income nor deductions. If a joint return is made, the
30 tax must be computed on the aggregate taxable income and the liability with respect to the tax is joint and several.~~

1 If a joint return has been filed for a tax year, the spouses may not file separate returns after the time for filing the
2 return of either has expired unless the department consents:

3 ~~———(3) If a taxpayer is unable to make the taxpayer's own return, the return must be made by an authorized
4 agent or by a guardian or other person charged with the care of the person or property of the taxpayer.~~

5 ~~———(4) All taxpayers, including but not limited to those subject to the provisions of 15-30-202 and 15-30-241,
6 shall compute the amount of income tax payable and shall, on or before the date required by this chapter for filing
7 a return, pay to the department any balance of income tax remaining unpaid after crediting the amount withheld,
8 as provided by 15-30-202, and any payment made by reason of an estimated tax return provided for in 15-30-241.
9 However, the tax computed must be greater by \$1 than the amount withheld and paid by estimated return as
10 provided in this chapter. If the amount of tax withheld and the payment of estimated tax exceed by more than \$1
11 the amount of income tax as computed, the taxpayer is entitled to a refund of the excess.~~

12 ~~———(5) If the department determines that the amount of tax due is greater than the amount of tax computed
13 by the taxpayer on the return, the department shall mail a notice to the taxpayer as provided in 15-30-323 of the
14 additional tax proposed to be assessed, including penalty and interest as provided in 15-1-216.~~

15 ~~———(6) By November 1 of each year, the department shall multiply the minimum amount of gross income
16 necessitating the filing of a return by the inflation factor for the tax year. These adjusted amounts are effective
17 for that tax year, and persons who have gross incomes less than these adjusted amounts are not required to file
18 a return.~~

19 ~~———(7) Individual income tax forms distributed by the department for each tax year must contain instructions
20 and tables based on the adjusted base year structure for that tax year."~~

21

22 **SECTION 61. SECTION 15-30-136, MCA, IS AMENDED TO READ:**

23 **"15-30-136. Computation of income of estates or trusts -- exemption.** (1) Except as otherwise
24 provided in this chapter, "gross income" of estates or trusts means all income from whatever source derived in
25 the tax year, including but not limited to the following items:

26 (a) dividends;

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

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

- 1 (ii) a school district; or
2 (iii) a county, municipality, district, or other political subdivision of the state;
3 (c) income from partnerships and other fiduciaries;
4 (d) gross rents and royalties;
5 (e) gain from sale or exchange of property, including those gains that are excluded from gross income
6 for federal fiduciary income tax purposes by section 641(c) of the Internal Revenue Code of 1954 (now deleted);
7 (f) gross profit from trade or business; and
8 (g) refunds recovered on federal income tax, to the extent that the deduction of the tax resulted in a
9 reduction of Montana income tax liability.
- 10 (2) In computing net income, there are allowed as deductions:
- 11 (a) interest expenses deductible for federal tax purposes according to section 163 of the Internal
12 Revenue Code, 26 U.S.C. 163;
13 (b) taxes paid or accrued within the tax year, including but not limited to up to \$5,000 of federal income
14 tax paid, but excluding Montana income tax;
15 (c) that fiduciary's portion of depreciation or depletion that is deductible for federal tax purposes
16 according to sections 167, 611, and 642 of the Internal Revenue Code, 26 U.S.C. 167, 611, and 642;
17 (d) charitable contributions that are deductible for federal tax purposes according to section 642(c) of
18 the Internal Revenue Code, 26 U.S.C. 642(c);
19 (e) administrative expenses claimed for federal income tax purposes, according to sections 212 and
20 642(g) of the Internal Revenue Code, 26 U.S.C. 212 and 642(g);
21 (f) losses from fire, storm, shipwreck, or other casualty or from theft, to the extent not compensated for
22 by insurance or otherwise, that are deductible for federal tax purposes according to section 165 of the Internal
23 Revenue Code, 26 U.S.C. 165;
24 (g) net operating loss deductions allowed for federal income tax under section 642(d) of the Internal
25 Revenue Code, 26 U.S.C. 642(d), except estates may not claim losses that are deductible on the decedent's final
26 return;
27 (h) Montana income tax refunds or tax refund credits.
- 28 (3) The following additional deductions are allowed in deriving taxable income of estates and trusts:
29 (a) any amount of income for the tax year currently required to be distributed to beneficiaries for the year;
30 (b) any other amounts properly paid or credited or required to be distributed for the tax year.

1 (4) The exemption allowed for estates and trusts is that exemption provided in 15-30-112(2)(a) and (6)."

2
3 **SECTION 62. SECTION 15-30-144, MCA, IS AMENDED TO READ:**

4 **"15-30-144. Time for filing -- extensions of time.** (1) A return must be made to the department on or
5 before the 15th day of the 4th month following the close of the taxpayer's fiscal year, or if the return is made on
6 the basis of the calendar year, then the return must be made on or before the 15th day of April following the close
7 of the calendar year. Each return must set forth those facts that the department considers necessary for the
8 proper enforcement of this chapter. There must be annexed to the return the affidavit or affirmation of the persons
9 making the return to the effect that the statements contained in the return are true. Blank forms of return must
10 be furnished by the department upon application, but failure to secure the form does not relieve any taxpayer of
11 the obligation to make any return required under this chapter. Each taxpayer liable for a tax under this chapter
12 shall pay a minimum tax of \$1.

13 (2) ~~An automatic 4-month extension of time for filing a return is allowed, provided that:~~

14 ~~—— (a) on or before the due date of the return, the taxpayer has applied with the internal revenue service~~
15 ~~for a 4-month extension of time for filing the taxpayer's federal individual income tax return for the same tax year.~~
16 ~~The extension of time for filing a return is not an extension of time for the payment of taxes.~~

17 ~~—— (b) the taxpayer has paid by estimated tax payments, withholding tax, or a combination of estimated tax~~
18 ~~payments and withholding tax 90% of the current year's tax liability or 100% of the previous year's tax liability.~~

19 A taxpayer is allowed an automatic extension of time for filing the taxpayer's return of up to 6 months following
20 the date prescribed for filing of the tax return. The tax, penalty, and interest must be paid when the return is filed.

21 Penalty and interest must be added to the tax due as provided in 15-1-216. The department may grant an
22 additional extension of time for the filing of a return whenever in its judgment good cause exists. An automatic
23 extension for filing a return or an additional extension of time for filing a return for good cause is not an extension
24 of time for the payment of taxes.

25 ~~(3) An additional 2-month extension of time for filing a return is automatically allowed provided that the~~
26 ~~taxpayer has applied with the internal revenue service for an additional 2-month extension of time for filing the~~
27 ~~taxpayer's federal individual income tax return for the same tax year and has satisfied the requirements of~~
28 ~~subsection (2)(b). The extension of time for filing a return is not an extension of time for the payment of taxes."~~

29
30 **SECTION 63. SECTION 15-30-149, MCA, IS AMENDED TO READ:**

1 **"15-30-149. Credits and refunds -- period of limitations.** (1) If the department discovers from the
2 examination of a return or upon a claim filed by a taxpayer or upon final judgment of a court that the amount of
3 income tax collected is in excess of the amount due or that any penalty or interest was erroneously or illegally
4 collected, the amount of the overpayment must be credited against any income tax, penalty, or interest then due
5 from the taxpayer and the balance of the excess must be refunded to the taxpayer.

6 (2) (a) A credit or refund under the provisions of this section may be allowed only if:

7 (i) prior to the expiration of the period provided by 15-30-146 and 15-30-147, the taxpayer files a claim
8 or the department determines there has been an overpayment; or

9 (ii) the claim for a credit or refund is made within 1 year of the determination of the overpayment.

10 (b) If an overpayment of tax results from a net operating loss carryback, the overpayment may be
11 refunded or credited within the period that expires on the 15th day of the 40th month following the close of the
12 tax year of the net operating loss if that period expires later than 5 years from the due date of the return for the
13 year to which the net operating loss is carried back.

14 (3) Within 6 months after a claim for refund is filed, the department shall examine the claim and either
15 approve or disapprove it. If the claim is approved, the credit or refund must be made to the taxpayer within 60
16 days after the claim is approved. If the claim is disallowed, the department shall notify the taxpayer and a review
17 of the determination of the department may be pursued as provided in 15-1-211.

18 (4) Interest is allowed on overpayments at the same rate as charged on delinquent taxes as provided
19 in 15-1-216. Interest is payable from the due date of the return or from the date of the overpayment, whichever
20 date is later, to the date the department approves refunding or crediting of the overpayment. With respect to tax
21 paid by withholding or by estimate, the date of overpayment is the date on which the return for the tax year was
22 due. Interest does not accrue on an overpayment if the taxpayer elects to have it applied to the taxpayer's
23 estimated tax for the succeeding ~~taxable~~ tax year. Interest does not accrue during any period the processing of
24 a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information
25 requested by the department for the purpose of verifying the amount of the overpayment. Interest is not allowed
26 if:

27 (a) the overpayment is refunded within 45 days from the date the return is due or the date the return is
28 filed, whichever date is later;

29 (b) the overpayment results from the carryback of a net operating loss; or

30 (c) the amount of interest is less than \$1.

1 (5) An overpayment not made incident to a bona fide and orderly discharge of an actual income tax
2 liability or one reasonably assumed to be imposed by this law is not considered an overpayment with respect to
3 which interest is allowable."
4

5 **SECTION 64. SECTION 15-30-171, MCA, IS AMENDED TO READ:**

6 **"15-30-171. Residential property tax credit for elderly -- definitions.** As used in 15-30-171 through
7 15-30-179, the following definitions apply:

8 (1) "Claim period" means the tax year for individuals required to file Montana individual income tax
9 returns and the calendar year for individuals not required to file returns.

10 (2) "Claimant" means a person who is eligible to file a claim under 15-30-172.

11 (3) "Department" means the department of revenue.

12 (4) "Gross household income" means all income received by all individuals of a household while they
13 are members of the household.

14 (5) "Gross rent" means the total rent in cash or its equivalent actually paid during the claim period by the
15 renter or lessee for the right of occupancy of the homestead pursuant to an arm's-length transaction with the
16 landlord.

17 (6) "Homestead" means:

18 (a) a single-family dwelling or unit of a multiple-unit dwelling that is subject to property taxes in Montana
19 and as much of the surrounding land, but not in excess of 1 acre, as is reasonably necessary for its use as a
20 dwelling; or

21 (b) a single-family dwelling or unit of a multiple-unit dwelling that is rented from a county or municipal
22 housing authority as provided in Title 7, chapter 15.

23 (7) "Household" means an association of persons who live in the same dwelling, sharing its furnishings,
24 facilities, accommodations, and expenses. The term does not include bona fide lessees, tenants, or roomers and
25 boarders on contract.

26 (8) "Household income" means the amount obtained by subtracting \$6,300 from gross household
27 income.

28 (9) (a) "Income" means, except as provided in subsection (9)(b), federal adjusted gross income, without
29 regard to loss, as that quantity is defined in the Internal Revenue Code of the United States, plus all nontaxable
30 income, including but not limited to:

- 1 (i) the amount of any pension or annuity, including Railroad Retirement Act benefits and veterans'
 2 disability benefits;
- 3 (ii) the amount of capital gains excluded from adjusted gross income;
- 4 (iii) alimony;
- 5 (iv) support money;
- 6 (v) nontaxable strike benefits;
- 7 (vi) cash public assistance and relief;
- 8 (vii) interest on federal, state, county, and municipal bonds; and
- 9 (viii) all payments received under federal social security except social security income paid directly to a
 10 nursing home.

11 (b) For the purposes of this subsection (9), income is reduced by the taxpayer's basis.

12 (10) "Property tax billed" means taxes levied against the homestead, including special assessments and
 13 fees but excluding penalties or interest during the claim period.

14 (11) "Rent-equivalent tax paid" means 15% of the gross rent."
 15

16 **SECTION 65. SECTION 15-30-172, MCA, IS AMENDED TO READ:**

17 **"15-30-172. Residential property tax credit for elderly -- eligibility.** (1) In order to be eligible to make
 18 a claim under 15-30-171 through 15-30-179, an individual:

19 ~~(a) must have reached age 62 or older during the claim period for which relief is sought;~~

20 ~~(b)(a)~~ must have resided in Montana for at least 9 months of that period;

21 ~~(c)(b)~~ must have occupied one or more dwellings in Montana as an owner, renter, or lessee for at least
 22 6 months of the claim period; and

23 ~~(d)(c)~~ must have less than \$45,000 of gross household income.

24 (2) A person is not disqualified as a claimant if the person changes residences during the claim period,
 25 provided that the person occupies one or more dwellings in Montana as an owner, renter, or lessee for at least
 26 6 months during the claim period."
 27

28 **SECTION 66. SECTION 15-30-173, MCA, IS AMENDED TO READ:**

29 **"15-30-173. Residential property tax credit for elderly -- disallowance or adjustment of certain**
 30 **claims.** (1) A claim is disallowed if the department finds that the claimant received title to ~~his~~ the claimant's

1 homestead primarily for the purpose of receiving benefits under 15-30-171 through 15-30-179.

2 (2) When the landlord and tenant have not dealt at arm's length and the department judges the gross
3 rent charged to be excessive, the department may adjust the gross rent to a reasonable amount."

4

5 **SECTION 67. SECTION 15-30-174, MCA, IS AMENDED TO READ:**

6 **"15-30-174. Residential property tax credit ~~for elderly~~ -- filing date.** (1) Except as provided in
7 ~~subsection~~ subsections (2) and (4), a claim for relief must be submitted at the same time the claimant's individual
8 income tax return is due. For an individual not required to file a tax return, the claim must be submitted on or
9 before April 15 of the year following the year for which relief is sought.

10 (2) The department may grant a reasonable extension for filing a claim whenever, in its judgment, good
11 cause exists.

12 (3) In the event that an individual who would have a claim under 15-30-171 through 15-30-179 dies
13 before filing the claim, the personal representative of the estate of the decedent may file the claim.

14 (4) The department or an individual may revise a return and make a claim under 15-30-171 through
15 15-30-179 within 5 years from the last day prescribed for filing a claim for relief."

16

17 **SECTION 68. SECTION 15-30-175, MCA, IS AMENDED TO READ:**

18 **"15-30-175. Residential property tax credit ~~for elderly~~ -- form of relief.** Relief under 15-30-171
19 through 15-30-179 is a credit against the claimant's Montana individual income tax liability for the claim period.
20 If the amount of the credit exceeds the claimant's liability under this chapter, the department shall refund the
21 amount of the excess ~~shall be refunded~~ to the claimant. The credit may be claimed even though the claimant has
22 no income taxable under this chapter."

23

24 **SECTION 69. SECTION 15-30-176, MCA, IS AMENDED TO READ:**

25 **"15-30-176. Residential property tax credit ~~for elderly~~ -- computation of relief.** The amount of the
26 tax credit granted under the provisions of 15-30-171 through 15-30-179 is computed as follows:

27 (1) ~~In the case of~~ When a claimant ~~who~~ owns the homestead for which a claim is made, the credit is the
28 amount of property tax billed less the deduction specified in subsection (4).

29 (2) ~~In the case of~~ When a claimant ~~who~~ rents the homestead for which a claim is made, the credit is the
30 amount of rent-equivalent tax paid less the deduction specified in subsection (4).

1 (3) ~~In the case of~~ When a claimant ~~who~~ both owns and rents the homestead for which a claim is made,
 2 the credit is:

3 (a) the amount of property tax billed on the owned portion of the homestead less the deduction specified
 4 in subsection (4); plus

5 (b) the amount of rent-equivalent tax paid on the rented portion of the homestead less the deduction
 6 specified in subsection (4).

7 (4) Property tax billed and rent-equivalent tax paid are reduced according to the following schedule:

8 Household income	Amount of reduction
9 \$0 - \$999	\$0
10 \$1,000 - \$1,999	\$0
11 \$2,000 - \$2,999	the product of .006 times the household income
12 \$3,000 - \$3,999	the product of .016 times the household income
13 \$4,000 - \$4,999	the product of .024 times the household income
14 \$5,000 - \$5,999	the product of .028 times the household income
15 \$6,000 - \$46,999	the product of .032 times the household income
16 \$7,000 - \$7,999	the product of .035 times the household income
17 \$8,000 - \$8,999	the product of .039 times the household income
18 \$9,000 - \$9,999	the product of .042 times the household income
19 \$10,000 - \$10,999	the product of .045 times the household income
20 \$11,000 - \$11,999	the product of .048 times the household income
21 \$12,000 & over	the product of .050 times the household income

22 (5) For a claimant whose household income is \$35,000 or more but less than \$45,000, the amount of
 23 the credit is equal to the credit calculated under this section multiplied by the decimal equivalent of a percentage
 24 figure according to the following table:

25 Gross household income	Percentage of credit allowed
26 \$35,000 - \$37,500	40% <u>80%</u>
27 \$37,501 - \$40,000	30% <u>60%</u>
28 \$40,001 - \$42,500	20% <u>40%</u>
29 \$42,501 - \$44,999	10% <u>20%</u>
30 \$45,000 or more	0%

- 1 (6) The credit granted may not exceed:
 2 (a) \$1,000 if the claimant is 62 years of age or older; or
 3 (b) \$400 if the claimant is younger than 62 years of age."

4
 5 **SECTION 70. SECTION 15-30-177, MCA, IS AMENDED TO READ:**

6 **"15-30-177. Residential property tax credit ~~for elderly~~ -- limitations.** (1) Only one claimant per
 7 household in a claim period under the provisions of 15-30-171 through 15-30-179 is entitled to a claim for relief.

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

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

13
 14 **SECTION 71. SECTION 15-30-178, MCA, IS AMENDED TO READ:**

15 **"15-30-178. Residential property tax credit ~~for elderly~~ -- proof of claim.** A receipt showing property
 16 tax billed or a receipt showing gross rent paid, whichever is appropriate, must be filed with each claim for relief.
 17 In addition, each claimant shall, at the request of the department, supply all additional information necessary to
 18 support a claim for relief."

19
 20 **SECTION 72. SECTION 15-30-179, MCA, IS AMENDED TO READ:**

21 **"15-30-179. Residential property tax credit ~~for elderly~~ -- denial of claim.** A person filing a false or
 22 fraudulent claim for relief under the provisions of 15-30-171 through 15-30-179 shall be charged with the offense
 23 of unsworn falsification to authorities pursuant to 45-7-203. If a false or fraudulent claim has been paid, the
 24 amount paid may be recovered as any other debt owed to the state. An additional 10% may be added to the
 25 amount due as a penalty. The unpaid debt ~~shall bear~~ bears interest from the date of the original payment of claim
 26 until paid, at the rate of 1% per month."

27
 28 **SECTION 73. SECTION 15-30-301, MCA, IS AMENDED TO READ:**

29 **"15-30-301. Information agents' duties.** (1) ~~Every~~ Each information agent shall make a return to the
 30 department of complete information concerning the following distributions made for any individual during the

1 ~~taxable tax~~ year upon which ~~no~~ withholding tax has not been deducted:

2 (a) sums in excess of \$10 distributed as dividends, interest as defined in section 6049 of the Internal
3 Revenue Code, 26 U.S.C. 6049, royalties, and payments made under a retirement plan covering an
4 owner-employee as defined in section 401(c)(3) of the Internal Revenue Code, 26 U.S.C. 401(c)(3);

5 (b) all interest income in excess of \$10 from obligations of another state and a county, municipality,
6 district, or other political subdivision of that state;

7 (c) interest, other than that specified in subsections (1)(a) and (1)(b), rents, salaries, wages, prizes,
8 awards, annuities, pensions, and other fixed or determinable gains, profits, and income in excess of \$600, except
9 interest coupons payable to the bearer;

10 (d) proceeds from real estate transactions that are required to be reported under rules or regulations of
11 the United States department of the treasury.

12 (2) The return must be made under ~~the regulations~~ rules adopted by the department and in the form and
13 manner prescribed by the department. For ease of reporting, the form must be as nearly identical to the
14 comparable federal form as possible."

15

16 **SECTION 74. SECTION 15-30-303, MCA, IS AMENDED TO READ:**

17 **"15-30-303. Confidentiality of tax records.** (1) Except as provided in subsections (7) and (8) or in
18 accordance with a proper judicial order or as otherwise provided by law, it is unlawful to divulge or make known
19 in any manner:

20 (a) the amount of income or any particulars set forth or disclosed in any individual report or individual
21 return required under this chapter or any other information secured in the administration of this chapter; or

22 (b) any federal return or federal return information disclosed on any return or report required by rule of
23 the department or under this chapter.

24 (2) (a) The officers charged with the custody of the reports and returns may not be required to produce
25 them or evidence of anything contained in them in an action or proceeding in a court, except in an action or
26 proceeding:

27 (i) to which the department is a party under the provisions of this chapter or any other taxing act; or

28 (ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes
29 when the reports or facts shown by the reports are directly involved in the action or proceedings.

30 (b) The court may require the production of and may admit in evidence only as much of the reports or

1 of the facts shown by the reports as are pertinent to the action or proceedings.

2 (3) This section does not prohibit:

3 (a) the delivery to a taxpayer or the taxpayer's authorized representative of a certified copy of any return
4 or report filed in connection with the taxpayer's tax;

5 (b) the publication of statistics classified to prevent the identification of particular reports or returns and
6 the items of particular reports or returns; ~~or~~

7 (c) the inspection by the attorney general or other legal representative of the state of the report or return
8 of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom
9 an action or proceeding has been instituted in accordance with the provisions of 15-30-311; or

10 (d) the delivery to the secretary of state, pursuant to 15-31-603, of the name, address, and business
11 activity code of any corporation, business trust, limited partnership, limited liability company, or limited liability
12 partnership that filed a tax return or report required by this chapter.

13 (4) Reports and returns must be preserved for at least 3 years and may be preserved until the
14 department orders them to be destroyed.

15 (5) Any offense against subsections (1) through (4) is punishable by a fine not exceeding \$1,000 or by
16 imprisonment in the county jail for a term not exceeding 1 year, or both. If the offender is an officer or employee
17 of the state, the offender must be dismissed from office and may not hold any public office in this state for a period
18 of 1 year after dismissal.

19 (6) This section may not be construed to prohibit the department from providing taxpayer return
20 information and information from employers' payroll withholding reports to:

21 (a) the department of labor and industry to be used for the purpose of investigation and prevention of
22 noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; or

23 (b) the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud,
24 and abuse under the workers' compensation program.

25 (7) The department may permit the commissioner of internal revenue of the United States or the proper
26 officer of any state imposing a tax upon the incomes of individuals or the authorized representative of either officer
27 to inspect the return of income of any individual or may furnish to the officer or an authorized representative an
28 abstract of the return of income of any individual or supply the officer with information concerning an item of
29 income contained in a return or disclosed by the report of an investigation of the income or return of income of
30 an individual, but the permission may be granted or information furnished only if the statutes of the United States

1 or of the other state grant substantially similar privileges to the proper officer of this state charged with the
2 administration of this chapter.

3 (8) The department shall furnish:

4 (a) to the department of justice;

5 (i) all information necessary to identify those persons qualifying for the additional exemption for blindness
6 pursuant to 15-30-112(4), for the purpose of enabling the department of justice to administer the provisions of
7 61-5-105;

8 (ii) all information necessary for the investigation and prevention of medicaid fraud, for the purposes of
9 enabling the department of justice to administer 53-2-501; and

10 (iii) all information necessary for investigation and prevention of crimes and fraud, for the purposes of
11 enabling the department of justice to administer 44-2-115;

12 (b) to the department of public health and human services information acquired under 15-30-301,
13 pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public
14 assistance fraud and abuse, provided notice to the applicant has been given;

15 (c) to the department of labor and industry for the purpose of prevention and detection of fraud and
16 abuse in and eligibility for benefits under the unemployment compensation and workers' compensation programs
17 information on whether a taxpayer who is the subject of an ongoing investigation by the department of labor and
18 industry is an employee, an independent contractor, or self-employed;

19 (d) to the department of fish, wildlife, and parks specific information that is available from income tax
20 returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and
21 fishing licenses;

22 (e) to the board of regents information required under 20-26-1111;

23 (f) to the legislative fiscal analyst and the office of budget and program planning individual income tax
24 information as provided in 5-12-303. The information provided to the office of budget and program planning must
25 be the same as the information provided to the legislative fiscal analyst.

26 (g) to the department of transportation farm income information based on the most recent income tax
27 return filed by an applicant applying for a refund under 15-70-223 or 15-70-362, provided that notice to the
28 applicant has been given as provided in 15-70-223 and 15-70-362. The information obtained by the department
29 of transportation is subject to the same restrictions on disclosure as are individual income tax returns.

30 (h) to the commissioner of insurance's office all information necessary for the administration of the small

1 business health insurance tax credit provided for in Title 33, chapter 22, part 20;

2 (i) to the commissioner of insurance's office information necessary for the administration of Title 33;

3 (j) to the office of securities commissioner information necessary for the administration of Title 30,

4 chapter 10."

5

6 **SECTION 75. SECTION 15-30-1102, MCA, IS AMENDED TO READ:**

7 **"15-30-1102. Income or license tax involving pass-through entities -- information returns required.**

8 (1) Except as otherwise provided:

9 (a) a partnership is not subject to taxes imposed in Title 15, chapter 30 or 31;

10 (b) an S. corporation is not subject to the taxes imposed in Title 15, chapter 30 or 31; and

11 (c) a disregarded entity is not subject to the taxes imposed in Title 15, chapter 30 or 31.

12 (2) Except as otherwise provided, each partner of a partnership described in subsection (1)(a), each
 13 shareholder of an S. corporation described in subsection (1)(b), and each partner, shareholder, member, or other
 14 owner of an entity described in subsection (1)(c), the first-tier pass-through entity, is subject to the taxes provided
 15 in this chapter, if an individual, trust, or estate, and to the taxes provided in Title 15, chapter 31, if a C.
 16 corporation. If a partner, shareholder, member, or other owner of an entity described in subsection (1) is itself a
 17 pass-through entity, any individual, trust, or estate to which the first-tier pass-through entity's Montana source
 18 income is directly or indirectly passed through is subject to the taxes provided in this chapter and any C.
 19 corporation to which the first-tier pass-through entity's Montana source income is directly or indirectly passed
 20 through is subject to the taxes provided in Title 15, chapter 31.

21 (3) Income realized for federal income tax purposes by a financial institution that has elected to be
 22 treated as an S. corporation under subchapter S. of Chapter 1 of the Internal Revenue Code and by its
 23 shareholders that is attributable to the financial institution's change from the bad debt reserve method of
 24 accounting provided in section 585 of the Internal Revenue Code, 26 U.S.C. 585, is not taxable under Title 15,
 25 chapter 30 or 31, to the extent that the aggregate deductions allowed for federal income tax purposes under 26
 26 U.S.C. 585 exceeded the aggregate deductions that the financial institution is allowed under 15-31-114(1)(b)(i).

27 (4) (a) A partnership that has Montana source income shall on or before the 15th day of the 4th month
 28 following the close of its annual accounting period file an information return on forms prescribed by the
 29 department and a copy of its federal partnership return. The return must include:

30 (i) the name, address, and social security or federal identification number of each partner;

- 1 (ii) the partnership's Montana source income;
- 2 (iii) each partner's distributive share of Montana source income, gain, loss, deduction, or credit or item
3 of income, gain, loss, deduction, or credit;
- 4 (iv) each partner's distributive share of income, gain, loss, deduction, or credit or item of income, gain,
5 loss, deduction, or credit from all sources; and
- 6 (v) any other information the department prescribes.
- 7 (b) An S. corporation that has Montana source income shall on or before the 15th day of the 3rd month
8 following the close of its annual accounting period file an information return on forms prescribed by the
9 department and a copy of its federal S. corporation return. The return must include:
- 10 (i) the name, address, and social security or federal identification number of each shareholder;
- 11 (ii) the S. corporation's Montana source income and each shareholder's pro rata share of separately and
12 nonseparately stated Montana source income, gain, loss, deduction, or credit or item of income, gain, loss,
13 deduction, or credit;
- 14 (iii) each shareholder's pro rata share of separately and nonseparately stated income, gain, loss,
15 deduction, or credit or item of income, gain, loss, deduction, or credit from all sources; and
- 16 (iv) any other information the department prescribes.
- 17 (c) A disregarded entity that has Montana source income shall furnish the information and file the returns
18 the department prescribes. The return must include:
- 19 (i) the name, address, and social security or federal identification number of each member or other owner
20 during the tax year;
- 21 (ii) the entity's Montana source income; and
- 22 (iii) any other information the department prescribes.
- 23 (d) (i) Except as provided in subsection (4)(d)(ii), a pass-through entity that fails to file an information
24 return required by this section by the due date, including any extension, must be assessed a late filing penalty
25 of \$10 multiplied by the number of the entity's partners, shareholders, members, or other owners at the close of
26 the tax year for each month or fraction of a month, not to exceed 5 months, that the entity fails to file the
27 information return. The department may waive the penalty imposed by this subsection (4)(d)(i) as provided in
28 15-1-206.
- 29 (ii) The penalty imposed under subsection (4)(d)(i) may not be imposed on a pass-through entity that has
30 10 or fewer partners, shareholders, members, or other owners, each of whom:

- 1 (A) is an individual, an estate of a deceased individual, or a C. corporation;
- 2 (B) has filed any required return or other report with the department by the due date, including any
3 extension of time, for the return or report; and
- 4 (C) has paid all taxes when due.
- 5 (5) The department shall waive the reporting requirements provided in this section for a grantor trust that
6 establishes that the trust's Montana source income will be fully accounted for in individual income tax returns,
7 corporation license tax returns, or corporation income tax returns filed with the department."

8

9 **SECTION 76. SECTION 15-31-113, MCA, IS AMENDED TO READ:**

10 **"15-31-113. Gross income, and net income, and real estate investment trust income defined --**
11 **computation of gross income of corporations not exempt from taxation.** (1) For the purposes of this chapter,
12 the following definitions apply:

13 ~~(1)(a)~~ (i) ~~The term "gross income"~~ "Gross income" means all income recognized in determining the
14 corporation's gross income for federal income tax purposes ~~and~~ increased as provided in subsection (1)(a)(ii)
15 and decreased as provided in subsection (1)(a)(iii).

16 ~~(a)(ii) including:~~ The following items are included in determining a corporation's gross income:

17 ~~(i)(A)~~ interest exempt from federal income tax and exempt-interest dividends as defined in section
18 852(b)(5) of the Internal Revenue Code of 1986, 26 U.S.C. 852(b)(5) ~~as that section may be amended or~~
19 ~~renumbered; and~~

20 ~~(ii)(B)~~ the portion of gain from a liquidation of the reporting corporation not recognized for federal
21 corporate income tax purposes pursuant to sections 331 through 337 of the Internal Revenue Code, 26 U.S.C.
22 331 through 337 ~~as those sections may be amended or renumbered~~, attributable to stockholders, either individual
23 or corporate, not subject to Montana income or license tax under Title 15, chapter 30 or chapter 31, as
24 appropriate, on the gain passing through to the stockholders pursuant to federal law; ~~and.~~

25 ~~(b)(iii) excluding~~ The following items are excluded in determining a corporation's gross income:

26 (A) the gain recognized for federal tax purposes as a shareholder of a liquidating corporation pursuant
27 to sections 331 through 337 of the Internal Revenue Code, 26 U.S.C. 331 through 337 ~~as those sections may~~
28 ~~be amended or renumbered~~, when the gain is required to be recognized by the liquidating corporation pursuant
29 to subsection ~~(1)(a)(ii)~~ (1)(a)(ii)(B) of this section; ~~and~~

30 (B) dividends received from a real estate investment trust to the extent they are taxed in Montana as

1 provided in 15-31-114 and this section.

2 (b) "Internal Revenue Code" has the meaning provided in 15-30-101.

3 ~~(2)(c)~~ (i) The term "net income" "Net income", except as provided in subsection (1)(c)(ii), means the
4 gross income of the corporation less the deductions set forth in 15-31-114.

5 (ii) If a corporation is taxed as a real estate investment trust as provided in sections 856 through 859 of
6 the Internal Revenue Code, 26 U.S.C. 856 through 859, the term means real estate investment trust income.

7 (d) "Real estate investment trust income" means real estate investment trust taxable income, as defined
8 in section 857(b)(2) of the Internal Revenue Code, 26 U.S.C. 857(b)(2), modified as follows:

9 (i) the exclusion for an amount equal to the net income from foreclosure property provided for in section
10 857(b)(2)(D) of the Internal Revenue Code, 26 U.S.C. 857(b)(2)(D), is not allowed;

11 (ii) the deduction for an amount equal to the tax imposed for failure to meet certain requirements for the
12 tax year provided for in section 857(b)(2)(E) of the Internal Revenue Code, 26 U.S.C. 857(b)(2)(E), is not allowed;

13 (iii) the exclusion for an amount equal to any net income derived from prohibited transactions provided
14 for in section 857(b)(2)(F) of the Internal Revenue Code, 26 U.S.C. 857(b)(2)(F), is not allowed; and

15 (iv) the deduction for dividends paid provided for in section 561, 858, or 860 of the Internal Revenue
16 Code, 26 U.S.C. 561, 858, or 860, or in any other section of the Internal Revenue Code is not allowed.

17 ~~(3)(2)~~ A corporation is not exempt from the corporation license tax unless specifically provided for under
18 15-31-101(3) or 15-31-102. Any corporation not subject to or liable for federal income tax but not exempt from
19 the corporation license tax under 15-31-101(3) or 15-31-102 shall compute gross income for corporation license
20 tax purposes in the same manner as a corporation that is subject to or liable for federal income tax according to
21 the provisions for determining gross income in the federal Internal Revenue Code in effect for the taxable year."
22

23 **SECTION 77. SECTION 15-31-114, MCA, IS AMENDED TO READ:**

24 **"15-31-114. Deductions allowed in computing income.** (1) In computing the net income, the following
25 deductions are allowed from the gross income received by the corporation within the year from all sources:

26 (a) all the ordinary and necessary expenses paid or incurred during the ~~taxable~~ tax year in the
27 maintenance and operation of its business and properties, including reasonable allowance for salaries for
28 personal services actually rendered, subject to the limitation contained in this ~~section~~ subsection (1)(a), and
29 rentals or other payments required to be made as a condition to the continued use or possession of property to
30 which the corporation has not taken or is not taking title or in which it has no equity. A deduction is not allowed

1 for salaries paid upon which the recipient has not paid Montana state income tax. However, when domestic
2 corporations are taxed on income derived from outside the state, salaries of officers paid in connection with
3 securing the income are deductible.

4 (b) (i) all losses actually sustained and charged off within the year and not compensated by insurance
5 or otherwise, including a reasonable allowance for the wear and tear and obsolescence of property used in the
6 trade or business. The allowance is determined according to the provisions of section 167 of the Internal Revenue
7 Code in effect with respect to the ~~taxable~~ tax year. All elections for depreciation must be the same as the elections
8 made for federal income tax purposes. A deduction is not allowed for any amount paid out for any buildings,
9 permanent improvements, or betterments made to increase the value of any property or estate, and a deduction
10 may not be made for any amount of expense of restoring property or making good the exhaustion of property for
11 which an allowance is or has been made. A depreciation or amortization deduction is not allowed on a title plant
12 as defined in 33-25-105(15).

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

15 (c) in the case of mines, other natural deposits, oil and gas wells, and timber, a reasonable allowance
16 for depletion and for depreciation of improvements. The reasonable allowance must be determined according
17 to the provisions of the Internal Revenue Code in effect for the ~~taxable~~ tax year. All elections made under the
18 Internal Revenue Code with respect to capitalizing or expensing exploration and development costs and
19 intangible drilling expenses for corporation license tax purposes must be the same as the elections made for
20 federal income tax purposes.

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

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

26 (A) taxes imposed by this part;

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

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

- 1 (D) taxes imposed by any other state or country upon or measured by net income or profits.
- 2 (ii) Taxes deductible under this part ~~must be construed to~~ include taxes imposed by any county, school
3 district, or municipality of this state.
- 4 (f) that portion of an energy-related investment allowed as a deduction under 15-32-103;
- 5 (g) (i) except as provided in subsection (1)(g)(ii) or (1)(g)(iii), charitable contributions and gifts that qualify
6 for deduction under section 170 of the Internal Revenue Code, 26 U.S.C. 170, ~~as amended~~.
- 7 (ii) The public service commission may not allow in the rate base of a regulated corporation the inclusion
8 of contributions made under this subsection.
- 9 (iii) A deduction is not allowed for a charitable contribution using a charitable gift annuity unless the
10 annuity is a qualified charitable gift annuity as defined in 33-20-701.
- 11 (h) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-209,
12 81-7-118, or 81-7-201.
- 13 (2) In lieu of the deduction allowed under subsection (1)(g), the taxpayer may deduct the fair market
14 value, not to exceed 30% of the taxpayer's net income, of a computer or other sophisticated technological
15 equipment or apparatus intended for use with the computer donated to an elementary, secondary, or accredited
16 postsecondary school located in Montana if:
- 17 (a) the contribution is made no later than 5 years after the manufacture of the donated property is
18 substantially completed;
- 19 (b) the property is not transferred by the donee in exchange for money, other property, or services; and
- 20 (c) the taxpayer receives a written statement from the donee in which the donee agrees to accept the
21 property and representing that the use and disposition of the property will be in accordance with the provisions
22 of subsection (2)(b).
- 23 (3) In the case of a regulated investment company or a fund of a regulated investment company, as
24 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~~
25 ~~section may be amended or renumbered~~, there is allowed a deduction for dividends paid, as defined in section
26 561 of the Internal Revenue Code of 1986, 26 U.S.C. 561, ~~as that section may be amended or renumbered~~,
27 except that the deduction for dividends is not allowed with respect to dividends attributable to any income that
28 is not subject to tax under this chapter when earned by the regulated investment company. For the purposes of
29 computing the deduction for dividends paid, the provisions of sections 852(b)(7) and 855 of the Internal Revenue
30 Code of ~~1986~~, 26 U.S.C. 852(b)(7) and 855, as those sections may be amended or renumbered, apply. A

1 regulated investment company is not allowed a deduction for dividends received as defined in sections 243
 2 through 245 of the Internal Revenue Code of 1986, 26 U.S.C. 243 through 245, ~~as those sections may be~~
 3 ~~amended or renumbered.~~

4 (4) A deduction is not allowed for any dividend received from:

5 (a) a regulated investment company, including without limitation:

6 (i) a capital gains dividend as defined in section 852(b)(3) of the Internal Revenue Code, 26 U.S.C.
 7 852(b)(3); and

8 (ii) any amount treated as a dividend under section 854(b) of the Internal Revenue Code, 26 U.S.C.
 9 854(b); and

10 (b) a real estate investment trust including, without limitation:

11 (i) a capital gain dividend as defined in section 857(b)(3)(C) of the Internal Revenue Code, 26 U.S.C.
 12 857(b)(3)(C);

13 (ii) a capital gain dividend treated by the shareholder or holder of a beneficial interest in a real estate
 14 investment trust as a gain from the sale or exchange of a capital asset held for more than 1 year as described
 15 in section 857(b)(3)(B) of the Internal Revenue Code, 26 U.S.C. 857(b)(3)(B); and

16 (iii) the amount designated by a real estate investment trust and includable in computing the long-term
 17 capital gains of a shareholder or holder of a beneficial interest as described in section 857(b)(3)(D) of the Internal
 18 Revenue Code, 26 U.S.C. 857(b)(3)(D)."

19

20 **SECTION 78. SECTION 15-31-119, MCA, IS AMENDED TO READ:**

21 **"15-31-119. Net operating losses -- carryovers and carrybacks.** (1) The net operating loss deduction
 22 is the aggregate of net operating loss carryovers to the ~~taxable tax~~ period plus the net operating loss carrybacks
 23 to the ~~taxable tax~~ period.

24 (2) ~~(a) The~~ Except as provided in subsection (2)(b), the term "net operating loss" means the excess of
 25 the deductions allowed by this section over the gross income, with the modifications specified in subsection ~~(6)(5)~~.

26 (b) The net operating loss of a real estate investment trust must be computed with the adjustments
 27 provided in 15-31-113(1)(d).

28 ~~(3) If for any taxable period beginning after December 31, 1970, a net operating loss is sustained, the~~
 29 ~~loss must be a net operating loss carryback to each of the three taxable periods preceding the taxable period of~~
 30 ~~the loss and must be a net operating loss carryover to each of the five taxable periods following the taxable period~~

1 of the loss.

2 ~~(4)(3)~~ A net operating loss for any taxable tax period ending after December 31, 1975, in addition to
3 being a net operating loss carryback to each of the three preceding taxable tax periods, must be a net operating
4 loss carryover to each of the seven taxable tax periods following the taxable tax period of the loss.

5 ~~(5)(4)~~ Except as provided in subsection (11), the portion of the loss that must be carried to each of the
6 other taxable tax years must be the excess, if any, of the amount of the loss over the sum of the net income for
7 each of the prior taxable tax periods to which the loss was carried. For purposes of this subsection, the net
8 income for the prior taxable tax period must be computed with the modification specified in subsection ~~(6)(b)~~
9 ~~(5)(b)~~ and by determining the amount of the net operating loss deduction without regard to the net operating loss
10 for the loss period or any taxable tax period after the loss period, and the net income ~~so that is~~ computed may
11 not be considered to be less than zero.

12 ~~(6)(5)~~ The modifications referred to in subsection ~~(2)~~ ~~(2)(a)~~ are as follows:

13 (a) The net operating loss deduction may not be allowed.

14 (b) The deduction for depletion may not exceed the amount that would be allowable if computed under
15 the cost method.

16 (c) Except to the extent provided in section 1382(b) of the Internal Revenue Code, 26 U.S.C. 1382(b),
17 a deduction for dividends paid or considered paid is not allowed.

18 (d) Any net operating loss carried over to any taxable tax year must be calculated under the provisions
19 of this section effective for the taxable tax year for which the return claiming the net operating loss carryover is
20 filed.

21 ~~(7)(6)~~ A net operating loss deduction may be allowed only with regard to losses attributable to the
22 business carried on within the state of Montana.

23 ~~(8)(7)~~ In the case of a merger of corporations, the surviving corporation ~~may is not be~~ allowed a net
24 operating loss deduction for net operating losses sustained by the merged corporations prior to the date of
25 merger. In the case of a consolidation of corporations, the new corporate entity ~~may is not be~~ allowed a deduction
26 for net operating losses sustained by the consolidated corporations prior to the date of consolidation.

27 ~~(9)(8)~~ Notwithstanding the provisions of 15-31-531, interest may not be paid with respect to a refund of
28 tax resulting from a net operating loss carryback or carryover.

29 ~~(10)(9)~~ The net operating loss deduction must be allowed with respect to taxable tax periods.

30 ~~(11)(10)~~ A taxpayer entitled to a carryback period for a net operating loss may elect to forego the entire

1 carryback period. If the election is made, the loss may be carried forward only. The election must be made on
 2 or before the date on which the return is due, including any extension of the due date, for the tax year of the net
 3 operating loss for which the election is to be in effect. The election is irrevocable for the year made.

4 ~~(+2)(11)~~ Notwithstanding any other provision of this section, the net operating loss deduction is not
 5 allowed in the case of a regulated investment company or a fund of a regulated investment company, as defined
 6 in section 851(a) or 851(b) of the Internal Revenue Code of 1986, ~~as that section may be amended or~~
 7 ~~renumbered~~ 26 U.S.C. 851(a) or 851(b)."

8

9 **SECTION 79. SECTION 15-31-322, MCA, IS AMENDED TO READ:**

10 **"15-31-322. Water's-edge election -- inclusion of tax havens.** (1) Notwithstanding any other
 11 provisions of law, a taxpayer subject to the taxes imposed under this chapter may apportion its income under this
 12 section. A return under a water's-edge election must include the income and apportionment factors of the
 13 following affiliated corporations only:

14 (a) a corporation incorporated in the United States or formed under the laws of any state, the District of
 15 Columbia, or any territory or possession of the United States in a unitary relationship with the taxpayer and
 16 eligible to be included in a federal consolidated return as described in 26 U.S.C. 1501 through 1505 ~~that has more~~
 17 ~~than 20% of its payroll and property assignable to locations inside the United States.~~ For purposes of determining
 18 eligibility for inclusion in a federal consolidated return under this subsection (1)(a), the 80% stock ownership
 19 requirements of 26 U.S.C. 1504 must be reduced to ownership of over 50% of the voting stock directly or
 20 indirectly owned or controlled by an includable corporation.

21 (b) domestic international sales corporations, as described in 26 U.S.C. 991 through 994, and foreign
 22 sales corporations, as described in 26 U.S.C. 921 through 927;

23 (c) export trade corporations, as described in 26 U.S.C. 970 and 971;

24 (d) foreign corporations deriving gain or loss from disposition of a United States real property interest
 25 to the extent recognized under 26 U.S.C. 897;

26 (e) a corporation that is in a unitary relationship with the taxpayer incorporated outside the United States
 27 if over 50% of its voting stock is owned directly or indirectly by the taxpayer and if more than 20% of the average
 28 of its payroll and property is assignable to a location inside the United States; ~~or~~

29 (f) a corporation that is in a unitary relationship with the taxpayer and that earns more than 20% of its
 30 income, directly or indirectly, from intangible property or service-related activities that are deductible against the

1 business income of other members of the water's-edge group, to the extent of that income and the apportionment
 2 factors related to that income; or

3 ~~(f)~~(g) a corporation that is in a unitary relationship with the taxpayer and that is incorporated in a tax
 4 haven, including Andorra, Anguilla, Antigua and Barbuda, Aruba, the Bahamas, Bahrain, Barbados, Belize,
 5 Bermuda, British Virgin Islands, Cayman Islands, Cook Islands, Cyprus, Turks and Caicos Islands, Dominica,
 6 Gibraltar, Grenada, Guernsey-Sark-Alderney, Isle of Man, Jersey, Liberia, Liechtenstein, Luxembourg, Maldives,
 7 Malta, Marshall Islands, Mauritius, Monaco, Montserrat, Nauru, Netherlands, Netherlands Antilles, Niue, Panama,
 8 Samoa, San Marino, Seychelles, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Tonga, U.S.
 9 Virgin Islands, and Vanuatu.

10 (2) The department shall report biennially to the revenue and transportation interim committee with an
 11 update of countries that may be considered a tax haven under subsection ~~(f)~~(1)(g).

12 (3) A corporation that is in a unitary relationship with the taxpayer and is not described in subsections
 13 (1)(a) through (1)(e) shall include the portion of its income derived from or attributable to sources within the United
 14 states, as determined under the Internal Revenue Code without regard to federal treaties, and its apportionment
 15 related to the income."

16

17 **SECTION 80. SECTION 15-31-323, MCA, IS AMENDED TO READ:**

18 "**15-31-323. Apportionment factors -- inclusion of tax havens.** (1) For purposes of 15-31-322(1)(a)
 19 through ~~(f)~~(1)(f), the location of payroll and property is determined under the individual state's laws and
 20 regulations that set forth the apportionment formulas used to assign net income subject to taxes on or measured
 21 by net income. If a state does not impose a tax on or measured by net income, apportionment is determined
 22 under this chapter.

23 (2) For the purposes of 15-31-322~~(f)~~(1)(g), income shifted to a tax haven, to the extent taxable, is
 24 considered income subject to apportionment."

25

26 **SECTION 81. SECTION 15-31-324, MCA, IS AMENDED TO READ:**

27 "**15-31-324. Water's-edge election period -- consent -- change of election.** (1) A water's-edge
 28 election may be made by a taxpayer and is effective only if every affiliated corporation subject to the taxes
 29 imposed under this chapter consents to the election. Consent by the common parent of an affiliated group
 30 constitutes consent of all members of the group. An affiliated corporation that becomes subject to taxes under

1 this chapter after the water's-edge election is considered to have consented to the election. The election must
 2 disclose the identity of the taxpayer and the identity of any affiliated corporation, including an affiliated corporation
 3 incorporated in a tax haven as set forth in 15-31-322~~(1)(f)~~(1)(g), in which the taxpayer or common foreign parent
 4 owns directly or indirectly more than 50% of the voting stock of the affiliated corporation.

5 (2) Except as provided in subsections (3) ~~and (4)~~ through (5), each water's-edge election must be for
 6 3-year renewable periods.

7 (3) A water's-edge election may be changed by a taxpayer before the end of each 3-year period only
 8 with the permission of the department. In granting a change of election, the department shall impose reasonable
 9 conditions that are necessary to prevent the avoidance of tax or clearly reflect income for the election period prior
 10 to the change.

11 (4) A taxpayer subject to the provisions of 15-31-322~~(1)(f)~~(1)(g) who has a water's-edge election that is
 12 in effect for tax periods beginning both before and after October 1, 2003, may rescind ~~the~~ that specific election
 13 for any tax period beginning after October 1, 2003.

14 (5) A taxpayer subject to the provisions of 15-31-322(1)(a), (1)(f), or (3) who has a water's-edge election
 15 that is in effect for tax periods beginning both before and after December 31, 2006, may rescind that specific
 16 election for any tax period beginning after December 31, 2006."

17

18 **SECTION 82. SECTION 15-31-326, MCA, IS AMENDED TO READ:**

19 **"15-31-326. Domestic disclosure spreadsheet -- inclusion of tax havens.** (1) The department may
 20 require a taxpayer making a water's-edge election to submit within 6 months after the taxpayer files its federal
 21 income tax return a domestic disclosure spreadsheet to provide full disclosure of the income reported to each
 22 state for the year, the tax liability for each state, the method used for allocating or apportioning income to the
 23 states, and the identity of the water's-edge corporate group and those of its United States affiliated corporations.

24 (2) The department may require a taxpayer subject to the provisions of 15-31-322~~(1)(f)~~(1)(g) to disclose
 25 the same information for tax havens as is required for states in subsection (1)."

26

27 **SECTION 83. SECTION 15-31-509, MCA, IS AMENDED TO READ:**

28 **"15-31-509. Periods of limitation.** (1) Except as otherwise provided in 15-31-544 and this section, a
 29 deficiency may not be assessed or collected with respect to the year for which a return is filed unless the notice
 30 of additional tax proposed to be assessed is mailed within ~~3~~ 5 years from the date that the return was filed. For

1 the purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last
2 day. When, before the expiration of the period prescribed for assessment of the tax, the taxpayer consents in
3 writing to an assessment after the time, the tax may be assessed at any time prior to the expiration of the period
4 agreed upon. The limitations prescribed for giving notice of a proposed assessment of additional tax may not
5 apply when:

6 (a) the taxpayer has by written agreement suspended the federal statute of limitations for collection of
7 federal tax if the suspension of the limitation set forth in this section lasts:

8 (i) only as long as the suspension of the federal statute of limitation; or

9 (ii) until 1 year after the federal changes have become final or an amended federal return is filed as a
10 result of the suspension of the federal statute, whichever is the latest in time; or

11 (b) a taxpayer has failed to file an amended Montana return, as required by 15-31-506, until ~~3~~ 5 years
12 after the federal changes become final or the amended federal return was filed, whichever the case may be.

13 (2) A refund or credit may not be allowed or paid with respect to the year for which a return is filed after
14 3 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment,
15 whichever period expires the later, unless before the expiration of the period the taxpayer files a claim for the
16 refund or credit or the department has determined the existence of the overpayment and has approved the refund
17 or credit. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within
18 which the department may propose an additional assessment, the period within which a claim for refund or credit
19 may be filed or a credit or refund allowed in the event a claim is not filed must automatically be extended.

20 (3) If a claim for refund or credit is based upon an overpayment attributable to a net loss carryback
21 adjustment as provided in 15-31-119, ~~in lieu of the 3-year period provided for in subsection (1), the period must~~
22 ~~be the period that ends with the expiration of the 15th day of the 41st month following the end of the tax year of~~
23 ~~the net loss that results in the carryback~~ the overpayment may be refunded or credited within the period that
24 expires on the 15th day of the 41st month following the close of the tax year of the net operating loss if that period
25 expires later than 5 years from the due date of the return for the year to which the net operating loss is carried
26 back.

27 (4) If the year of the net operating loss is open under either state or federal waivers, the year to which
28 the loss is carried back will remain open for the purposes of the loss carryback and for 12 months following the
29 expiration of the state or federal waiver, even though the claim would otherwise be barred under this section."

30

1 **SECTION 84. SECTION 15-31-511, MCA, IS AMENDED TO READ:**

2 **"15-31-511. Confidentiality of tax records.** (1) Except as provided in this section in accordance with
3 a proper judicial order or as otherwise provided by law, it is unlawful to knowingly divulge or make known in any
4 manner:

5 (a) the amount of income or any particulars set forth or disclosed in any return or report required under
6 this chapter or any other information relating to taxation secured in the administration of this chapter; or

7 (b) any federal return or information in or disclosed on a federal return or report required by law or rule
8 of the department of revenue under this chapter.

9 (2) (a) An officer or employee charged with custody of returns and reports required by this chapter may
10 not be ordered to produce any of them or evidence of anything contained in them in any administrative
11 proceeding or action or proceeding in any court, except:

12 (i) in an action or proceeding in which the department is a party under the provisions of this chapter; or

13 (ii) in any other tax proceeding or on behalf of a party to an action or proceeding under the provisions of
14 this chapter when the returns or reports or facts shown in them are directly pertinent to the action or proceeding.

15 (b) If the production of a return, report, or information contained in them is ordered, the court shall limit
16 production of and the admission of returns, reports, or facts shown in them to the matters directly pertinent to the
17 action or proceeding.

18 (3) This section does not prohibit:

19 (a) the delivery of a certified copy of any return or report filed in connection with a return to the taxpayer
20 who filed the return or report or to the taxpayer's authorized representative;

21 (b) the publication of statistics prepared in a manner that prevents the identification of particular returns,
22 reports, or items from returns or reports;

23 (c) the inspection of returns and reports by the attorney general or other legal representative of the state
24 in the course of an administrative proceeding or litigation under this chapter;

25 (d) access to information under subsection (4);

26 (e) the director of revenue from permitting a representative of the commissioner of internal revenue of
27 the United States or a representative of a proper officer of any state imposing a tax on the income of a taxpayer
28 to inspect the returns or reports of a corporation. The department may also furnish those persons abstracts of
29 income, returns, and reports; information concerning any item in a return or report; and any item disclosed by an
30 investigation of the income or return of a corporation. The director of revenue may not furnish that information

1 to a person representing the United States or another state unless the United States or the other state grants
2 substantially similar privileges to an officer of this state charged with the administration of this chapter.

3 (f) the disclosure of information to the commissioner of insurance's office that is necessary for the
4 administration of the small business health insurance tax credit provided for in Title 33, chapter 22, part 20; or
5 (g) the delivery to the secretary of state, pursuant to 15-31-603, of the name, address, and business
6 activity code of any corporation, business trust, limited partnership, limited liability company, or limited liability
7 partnership that filed a tax return or report required by this chapter.

8 (4) The department shall on request:

9 (a) allow the inspection of returns and reports by the legislative auditor, but the information furnished to
10 the legislative auditor is subject to the same restrictions on disclosure outside that office as provided in subsection
11 (1); and

12 (b) deliver corporation income tax data to the legislative fiscal analyst and the office of budget and
13 program planning, but the information furnished to the legislative fiscal analyst and the office of budget and
14 program planning is subject to the same restrictions on disclosure outside those offices as provided in subsection
15 (1);

16 (c) provide to the commissioner of insurance's office information necessary for the administration of Title
17 33; and

18 (d) provide to the office of securities commissioner information necessary for the administration of Title
19 30, chapter 10.

20 (5) A person convicted of violating this section shall be fined not to exceed \$1,000 or be imprisoned in
21 the county jail for a term not to exceed 1 year, or both. If a public servant, as defined in 45-2-101, is convicted
22 of violating this section, the person forfeits office and may not hold any public office or public employment in the
23 state for a period of 1 year after conviction."
24

25 **SECTION 85. SECTION 15-31-603, MCA, IS AMENDED TO READ:**

26 **"15-31-603. List of entities furnished by and to secretary of state. (1)** On or before the 15th day of
27 each month, the secretary of state shall provide a list of all new corporations, business trusts, limited partnerships,
28 limited liability companies, and limited liability partnerships, foreign and domestic, subject to the terms of Title 35,
29 chapters 1, 4, 5, 8 through 10, and 12, to the department ~~of revenue~~. The list must include the following
30 information:

- 1 ~~(1)~~(a) the name of the entity;
- 2 ~~(2)~~(b) the principal office of the entity;
- 3 ~~(3)~~(c) the name and address of the registered agent of the entity in Montana, if applicable; ~~and~~
- 4 ~~(d)~~ THE LAST FOUR DIGITS OF the federal tax identification number of the entity, if applicable; and
- 5 ~~(4)~~(e) other information that the director of the department of ~~revenue~~ may require.

6 (2) On or before December 15 of each year, the department shall furnish to the secretary of state a list

7 of all corporations, business trusts, limited partnerships, limited liability companies, and limited liability

8 partnerships that have filed a tax return or report required by chapter 30 or 31. The list must include the following

9 information:

- 10 (a) the name of the entity;
- 11 (b) the address of the entity; and
- 12 (c) the business activity code of the entity, if available."

13

14 **SECTION 86. SECTION 15-32-109, MCA, IS AMENDED TO READ:**

15 **"15-32-109. Credit for energy-conserving expenditures.** (1) Subject to the restrictions of ~~subsection~~

16 ~~(2)~~ subsections (4) and (5), a resident individual taxpayer may take a credit against the taxpayer's tax liability

17 under chapter 30 for 25% of the taxpayer's expenditure for a capital investment in the physical attributes of a

18 building or the installation of a water, lighting, heating, or cooling system in the building, ~~so as~~ as long as either type

19 ~~of investment is~~ the investments are for an energy conservation purpose, in an amount not to exceed ~~\$500~~ \$800.

20 (2) (a) Subject to the restrictions of subsections (4) and (5), a resident individual taxpayer with a family

21 income of less than or equal to the amount established in subsection (2)(b) may take a credit against the

22 taxpayer's tax liability under chapter 30 for 25% of the taxpayer's expenditure for a capital investment in the

23 physical attributes of a building or the installation of a water, lighting, heating, or cooling system in the building

24 as long as the investments are for an energy conservation purpose, in an amount not to exceed \$800.

25 (b) To be eligible for the credit allowed by this subsection (2), a single taxpayer may not have a Montana

26 adjusted gross income in excess of \$11,280 and married couples filing jointly or separately on the same form may

27 not have a Montana adjusted gross income in excess of \$14,590. The department, by November 1 of each year,

28 shall multiply the income amounts in this subsection (2)(b) by the inflation factor for that year and round the

29 product to the nearest \$10. The resulting adjusted income is effective for that tax year and must be used in

30 determining the eligibility for the credit allowed by this subsection (2).

1 (3) Subject to the restrictions of subsections (4) through (7), a credit of 25% of expenditures for capital
 2 investments by a limited liability company, an S. corporation, a partnership, or a disregarded entity that is not a
 3 limited liability company, in the physical attributes of a residential rental building or in the installation of a water,
 4 lighting, refrigeration, heating, or cooling system in the building, as long as the investments are for an energy
 5 conservation purpose, in an amount not to exceed \$800, may be claimed as provided in subsection (7) by owners
 6 of the entity against their tax liability under chapter 30.

7 (4) An expenditure by a taxpayer or pass-through entity may be claimed for credit under subsection (1),
 8 (2), or (3) but may be claimed under only one of those subsections.

9 ~~(2)~~(5) The credit credits under subsection subsections (1):

10 ~~—— (a) may not exceed the taxpayer's tax liability; and~~

11 ~~—— (b) is through (3) are subject to the provisions of 15-32-104.~~

12 (6) The credits under subsections (1) and (3) may not exceed the taxpayer's tax liability. If the amount
 13 of the tax credit under subsection (2) exceeds the taxpayer's income tax liability for the tax year, the amount of
 14 the excess must be refunded to the taxpayer. The credit may be claimed even if the claimant has no taxable
 15 income.

16 (7) If the expenditure was made by an S. corporation, the shareholders may claim a pro rata share of
 17 the tax credit. If the expenditure was made by a limited liability company that is treated as an S. corporation for
 18 income tax purposes, the members may claim a pro rata share of the tax credit. If the expenditure was made by
 19 a partnership or by a limited liability company that is treated as a partnership for income tax purposes, the credit
 20 may be claimed by the partners or members who are individuals, trusts, or estates and who are subject to tax
 21 under chapter 30 in the same proportion used to report the partnership's income or loss for Montana income tax
 22 purposes. If the expenditure was made by a limited liability company that is a disregarded entity or by another
 23 disregarded entity and if the disregarded entity's items of income, deduction, and credit are reported in the
 24 Montana income tax returns of an individual, the credit may be claimed by the individual."

25

26 **SECTION 87. SECTION 15-35-104, MCA, IS AMENDED TO READ:**

27 **"15-35-104. Quarterly statement and payment of tax.** Each coal mine operator shall compute the
 28 severance tax due on each quarter-year's worth of production on forms prescribed by the department. The
 29 statement ~~shall~~ must indicate the tonnage produced, the average Btu value of the production, the contract sales
 30 price received for the production, and ~~such any~~ other information as that the department may require. ~~Each coal~~

1 mine operator shall provide a statement of the tons of coal sold to each purchaser for the quarter. The completed
 2 form in duplicate, with the tax payment, shall must be delivered to the department not later than 30 days following
 3 the close of the quarter. The form shall must be signed by the operator if the operator is an individual or by an
 4 officer of the coal mine operator if the operator is a business entity. A person operating more than one coal mine
 5 in this state may include all of his the operator's mines in one statement. The department may grant a reasonable
 6 extension of time for filing statements and payment of taxes due upon good cause shown ~~therefor.~~"

7

8 **SECTION 88. SECTION 15-36-313, MCA, IS AMENDED TO READ:**

9 **"15-36-313. Procedure to compute tax in absence of statement -- estimation of tax -- failure to file**
 10 **penalty and interest.** (1) If the operator fails to file any statement required by 15-36-311 within the time required,
 11 the department shall, ~~immediately after the time has expired,~~ ascertain the number of barrels of oil or cubic feet
 12 of gas produced and sold by the person in this state during the quarter and during each month of the quarter. The
 13 department also shall determine the average value of the barrels of oil produced and sold during each month or
 14 the average value of cubic feet of gas produced and sold during each month and fix the amount of the taxes due
 15 from the person for the quarter.

16 (2) The department shall impose penalty and interest as provided in 15-1-216. The department shall mail
 17 to the taxpayer a notice, pursuant to 15-1-211, of the tax, penalty, and interest proposed to be assessed. The
 18 taxpayer may seek review of the determination pursuant to 15-1-211. The notice must contain a statement that
 19 if payment is not made, a warrant for distraint may be filed. The department may waive any penalty pursuant to
 20 15-1-206."

21

22 **SECTION 89. SECTION 15-39-105, MCA, IS AMENDED TO READ:**

23 **"15-39-105. Penalties and interest for violation.** (1) ~~(a)~~ A person who fails to file a statement as
 24 required by 15-39-102 must be assessed a penalty as provided in 15-1-216. The department may waive the
 25 penalty as provided in 15-1-206.

26 ~~(b)~~(2) A person who fails to file the statement required by 15-39-102 ~~and~~ or to pay the tax before the due
 27 date must be assessed a ~~penalty~~ penalties and interest as provided in 15-1-216. The department may waive any
 28 penalty pursuant to 15-1-206.

29 ~~(2) A person who purposely fails to pay the tax when due must be assessed an additional penalty as~~
 30 ~~provided in 15-1-216(1)(d)."~~

1

2 **SECTION 90. SECTION 15-39-107, MCA, IS AMENDED TO READ:**3 **"15-39-107. Interest on deficiency -- penalty.** (1) Interest accrues on unpaid or delinquent taxes as
4 provided in 15-1-216. The interest must be computed from the date on which the statement and tax were
5 originally due.6 (2) If the payment of a tax deficiency is not made within 60 days after it is due and payable and if the
7 deficiency is due to negligence on the part of the taxpayer but without fraud, the penalty imposed by
8 ~~15-1-216(1)(e)~~ 15-1-216(2) must be added to the amount of the deficiency."

9

10 **SECTION 91. SECTION 15-62-207, MCA, IS AMENDED TO READ:**11 **"15-62-207. Deductions for contributions.** An individual who contributes to one or more accounts in
12 a tax year is entitled to reduce the individual's adjusted gross income, in accordance with ~~15-30-111(8)(7)~~, by the
13 total amount of the contributions, but not more than \$3,000. The contribution must be made to an account owned
14 by the contributor, the contributor's spouse, or the contributor's child or stepchild if the contributor's child or
15 stepchild is a Montana resident."

16

17 **SECTION 92. SECTION 15-62-208, MCA, IS AMENDED TO READ:**18 **"15-62-208. Tax on certain withdrawals of deductible contributions.** (1) There is a recapture tax at
19 a rate equal to the highest rate of tax provided in 15-30-103 on the recapturable withdrawal of amounts that
20 reduced adjusted gross income under ~~15-30-111(8)(7)~~.21 (2) For purposes of determining the portion of a recapturable withdrawal that reduced adjusted gross
22 income, all withdrawals must be allocated between income and contributions in accordance with the principles
23 applicable under section 529(c)(3)(A) of the Internal Revenue Code of ~~1986~~, 26 U.S.C. 529(c)(3)(A). The portion
24 of a recapturable withdrawal that is allocated to contributions must be treated as derived first from contributions,
25 if any, that did not reduce adjusted gross income, to the extent of those contributions, and then to contributions
26 that reduced adjusted gross income. The portion of any other withdrawal that is allocated to contributions must
27 be treated as first derived from contributions that reduced adjusted gross income, to the extent of the
28 contributions, and then to contributions that did not reduce adjusted gross income.29 (3) (a) The recapture tax imposed by this section is payable by the owner of the account from which the
30 withdrawal or contribution was made. The tax liability must be reported on the income tax return of the account

1 owner and is payable with the income tax payment for the year of the withdrawal or at the time that an income
 2 tax payment would be due for the year of the withdrawal. The account owner is liable for the tax even if the
 3 account owner is not a Montana resident at the time of the withdrawal.

4 (b) The department may require withholding on recapturable withdrawals from an account that was at
 5 one time owned by a Montana resident if the account owner is not a Montana resident at the time of the
 6 withdrawal. For the purposes of this subsection (3)(b), amounts rolled over from an account that was at one time
 7 owned by a Montana resident must be treated as if the account is owned by a resident of Montana.

8 (4) For the purposes of this section, all contributions made to accounts by residents of Montana are
 9 presumed to have reduced the contributor's adjusted gross income unless the contributor can demonstrate that
 10 all or a portion of the contributions did not reduce adjusted gross income. Contributors who claim deductions for
 11 contributions shall report on their Montana income tax returns the amount of deductible contributions made to
 12 accounts for each designated beneficiary and the social security number of each designated beneficiary.

13 (5) As used in this section, "recapturable withdrawal" means a withdrawal or distribution that is a
 14 nonqualified withdrawal or a withdrawal or distribution from an account that was opened after the later of:

15 (a) April 30, 2001; or

16 (b) the date that is 3 years prior to the date of the withdrawal or distribution.

17 (6) The department shall use all means available for the administration and enforcement of income tax
 18 laws in the administration and enforcement of this section."

19

20 **SECTION 93. SECTION 15-65-101, MCA, IS AMENDED TO READ:**

21 **"15-65-101. Definitions.** For purposes of this part, the following definitions apply:

22 (1) (a) "Accommodation charge" means the fee charged by the owner or operator of a facility to the user
 23 for use of the a facility located in the state for lodging;

24 (b) Accommodation charge includes amounts charged to the user for reserving use of the facility,
 25 processing the reservation, or providing any other service, including bath house facilities, in connection with a
 26 user's use of the facility for lodging.

27 (c) ~~but excluding~~ The term does not include separately stated charges for meals, transportation,
 28 entertainment, or any other similar charges unrelated to a user's use of the facility for lodging or charges for
 29 rooms used for purposes other than lodging.

30 (2) (a) "Campground" means a place, ~~publicly or privately owned,~~ used for public camping where

1 persons may camp, secure tents, or park individual recreational vehicles for camping and sleeping purposes.

2 (b) The term does not include that portion of a trailer court, trailer park, or mobile home park intended
3 for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30 consecutive days or
4 more.

5 (3) "Council" means the tourism advisory council established in 2-15-1816.

6 (4) (a) "Facility" means a building or structure containing one or more individual sleeping rooms or suites;
7 ~~providing that provides~~ overnight lodging facilities for periods of less than 30 days to the general public for
8 compensation.

9 (b) The term includes a facility or accommodations represented to the public as a hotel, motel,
10 campground, resort, dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodginghouse, or bed
11 and breakfast facility.

12 (c) For the purposes of administering the tax on accommodation charges imposed under Title 15,
13 chapter 68, and the tax imposed on accommodation charges under this part, facility has the same meaning as
14 accommodations, as defined in 15-68-101.

15 (b)(d) The term does not include:

16 (i) any health care facility, as defined in 50-5-101;

17 (ii) any facility owned by a corporation organized under Title 35, chapter 2 or 3, that is used primarily by
18 persons under the age of 18 years for camping purposes;

19 (iii) any hotel, motel, hostel, public lodginghouse, or bed and breakfast facility whose average daily
20 accommodation charge for single occupancy does not exceed 60% of the amount authorized under 2-18-501 for
21 the actual cost of lodging for travel within the state of Montana; or

22 (iv) any other facility that is rented solely on a monthly basis or for a period of 30 days or more.

23 (5) "Intermediary" means a person, other than the owner or operator of the facility, who collects an
24 accommodation charge from a user.

25 (5)(6) "Nonprofit convention and visitors bureau" means a nonprofit corporation organized under
26 Montana law and recognized by a majority of the governing body in the city, consolidated city-county, resort area,
27 or resort area district in which the bureau is located.

28 (6)(7) "Regional nonprofit tourism corporation" means a nonprofit corporation organized under Montana
29 law and recognized by the council as the entity for promoting tourism within one of several regions established
30 by executive order of the governor.

1 ~~(7)~~(8) "Resort area" means an area established pursuant to 7-6-1508.

2 ~~(8)~~(9) "Resort area district" has the meaning provided in 7-6-1531.

3 (10) "User" has the meaning provided in 15-68-101."

4

5 **SECTION 94.** SECTION 15-65-102, MCA, IS AMENDED TO READ:

6 "**15-65-102. Rulemaking authority.** The department of revenue shall adopt such rules as that may be
7 necessary to implement and administer this part. Unless otherwise specifically provided by law, the provisions
8 of Title 15, chapter 68, and this part must be interpreted and administered together. The department shall adopt
9 rules and provide a single form for reporting taxes imposed under Title 15, chapter 68, and this part."

10

11 **SECTION 95.** SECTION 15-65-111, MCA, IS AMENDED TO READ:

12 "**15-65-111. Tax rate -- no advertising to absorb or refund tax.** (1) There is imposed on the user of
13 a facility a tax at a rate equal to 4% of the accommodation charge collected from the user by the owner or
14 operator of the facility or by an intermediary.

15 (2) ~~Accommodation charges do not include charges for rooms used for purposes other than lodging~~ A
16 person may not advertise, hold out, or state to the public or to any user that the tax imposed under this section
17 will be absorbed or refunded."

18

19 **SECTION 96.** SECTION 15-65-112, MCA, IS AMENDED TO READ:

20 "**15-65-112. Collection and reporting.** (1) ~~The owner or operator of a facility~~ Except as provided in
21 subsection (2), a person who collects an accommodation charge from a user shall:

22 (a) collect the ~~tax~~ taxes imposed by 15-65-111 and 15-68-102; and

23 (b) on or before the end of the calendar month following the end of each calendar quarter:

24 ~~(2) The owner or operator shall~~

25 (i) report to the department of revenue, at the end of each calendar quarter, the gross receipts collected
26 during that the quarter attributable to accommodation charges for the use of the facility. The report is due on or
27 before the last day of the month following the end of the calendar quarter and must be accompanied by a
28 payment in an amount equal to the tax required to be collected under subsection (1) and any additional
29 information that the department requires; and

30 (ii) remit to the department with the report described in subsection (1)(b)(i) the taxes collected on

1 accommodation charges during the calendar quarter.

2 (2) (a) Except as provided in subsection (2)(b), a report is not required for a hotel, motel, hostel, public
3 lodginghouse, or bed and breakfast facility described in 15-65-101(4)(d)(iii).

4 (b) The owner or operator of a facility described under subsection (2)(a) shall annually report, at a time
5 prescribed by the department, the information that the department requests to verify the average daily
6 accommodation charge."

7

8 **SECTION 97. SECTION 15-65-113, MCA, IS AMENDED TO READ:**

9 **"15-65-113. Audits -- records -- revision of return.** (1) ~~The department of revenue~~ may audit the books
10 and records of ~~any an~~ an owner or operator of a facility or an intermediary to ensure that the proper amount of tax
11 imposed by 15-65-111 has been collected. An audit may be done on the premises of the owner, ~~or~~ operator, ~~of~~
12 a facility or intermediary or at any other convenient location.

13 (2) The department may request the owner or operator of a facility or an intermediary to provide the
14 department with books, ~~ledgers, registers~~ papers, records, memoranda, or other documents ~~necessary to verify~~
15 ~~the correct amount of tax as provided in 15-68-502(4).~~

16 (3) ~~The~~ Each owner or operator of a facility or intermediary shall maintain and have available for
17 inspection by the department books, ~~ledgers, registers~~ papers, records, memoranda, or other documents showing
18 the collection of accommodation charges for the preceding 5 years.

19 (4) Except in the case of a person who, with intent to evade the tax, purposely or knowingly files a false
20 or fraudulent return violating the provisions of this part, the amount of tax due under any return must be
21 determined by the department within 5 years after the return is made, ~~and the department thereafter is barred~~
22 ~~from revising any such~~ After the 5-year period, the department may not revise the return or ~~recomputing~~
23 recompute the tax due ~~thereon, on the return.~~ and no A proceeding in court for the collection of the tax may not
24 be instituted unless notice of any additional tax is provided within ~~such~~ the 5-year period.

25 (5) An owner or operator of a facility or an intermediary may file an application for revision ~~may be filed~~
26 of a return with the department ~~by an owner or operator of a facility~~ within 5 years from the original due date of
27 the return."

28

29 **SECTION 98. SECTION 15-65-114, MCA, IS AMENDED TO READ:**

30 **"15-65-114. Registration number -- application to department.** (1) ~~The owner or operator of a facility~~

1 Each person that collects an accommodation charge from a user shall apply to the department of revenue for a
 2 registration number obtain a permit as provided in 15-68-402.

3 ~~(2) The application must be made on a form provided by the department.~~

4 ~~(3)(2) Upon completion of the application and delivery of the permit application to the department, the~~
 5 ~~department must shall assign a registration number to the owner, operator, or facility, or intermediary, as~~
 6 ~~appropriate."~~

7

8 **SECTION 99. SECTION 15-65-115, MCA, IS AMENDED TO READ:**

9 **"15-65-115. Failure to pay or file -- penalty and interest -- review -- interest application of sales**
 10 **and use tax provisions.** (1) ~~An owner or operator of a facility who fails to file the report as required by 15-65-112~~
 11 ~~must be assessed a penalty as provided in 15-1-216. The department may waive any penalty as provided in~~
 12 ~~15-1-206.~~

13 ~~——(2) An owner or operator of a facility who fails to make payment or fails to report and make payment as~~
 14 ~~required by 15-65-112 must be assessed penalty and interest as provided in 15-1-216. The department may~~
 15 ~~waive any penalty pursuant to 15-1-206.~~

16 ~~——(3) (a) If an owner or operator of a facility or an intermediary fails to file the report required by 15-65-112~~
 17 ~~or if the department determines that the report understates the amount of tax due, the department may determine~~
 18 ~~the amount of the tax due and assess that amount against the owner or operator or the intermediary. The~~
 19 ~~provisions of 15-1-211 15-68-513, 15-68-514, and 15-68-516 apply to any assessment and collection of~~
 20 ~~delinquent taxes by the department and to taxpayer objections and rights. The taxpayer may seek review of the~~
 21 ~~assessment pursuant to 15-1-211.~~

22 ~~(b)(2) When a deficiency is determined and the tax becomes final, the department shall mail a notice and~~
 23 ~~demand for payment to the owner or operator or the intermediary. Penalty and interest must be added to any~~
 24 ~~deficiency assessment as provided in 15-1-216."~~

25

26 **SECTION 100. SECTION 15-68-101, MCA, IS AMENDED TO READ:**

27 **"15-68-101. Definitions.** For purposes of this chapter, unless the context requires otherwise, the
 28 following definitions apply:

29 (1) (a) "Accommodations" means a building or structure containing one or more individual sleeping
 30 rooms or suites that provides overnight lodging facilities for periods of less than 30 days to the general public for

1 compensation.

2 (b) Accommodations includes a facility represented to the public as a hotel, motel, campground, resort,
3 dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodginghouse, timeshare available for rental,
4 vacation home rental, or bed and breakfast facility.

5 (c) For the purposes of administering the tax imposed on accommodation charges under Title 15,
6 chapter 65, and the tax imposed on accommodation charges under this chapter, accommodations has the same
7 meaning as facility, as defined in 15-65-101.

8 ~~(e)~~(d) The term does not include:

9 (i) a health care facility, as defined in 50-5-101;

10 (ii) any facility owned by a corporation organized under Title 35, chapter 2 or 3, that is used primarily by
11 persons under 18 years of age for camping purposes;

12 (iii) any hotel, motel, hostel, public lodginghouse, or bed and breakfast facility whose average daily
13 accommodation charge for single occupancy does not exceed 60% of the amount authorized under 2-18-501 for
14 the actual cost of lodging for travel within the state of Montana; or

15 (iv) any other facility that is rented solely on a monthly basis or for a period of 30 days or more.

16 (2) "Accommodation charge" has the meaning provided in 15-65-101.

17 ~~(2)~~(3) (a) "Admission" means payment made for the privilege of being admitted to a facility, place, or
18 event.

19 (b) The term does not include payment for admittance to a movie theater or to a sporting event
20 sanctioned by a school district, college, or university.

21 ~~(3)~~(4) (a) "Base rental charge" means the following:

22 (i) charges for time of use of the rental vehicle and mileage, if applicable;

23 (ii) charges accepted by the renter for personal accident insurance;

24 (iii) charges for additional drivers or underage drivers; and

25 (iv) charges for child safety restraints, luggage racks, ski racks, or other accessory equipment for the
26 rental vehicle.

27 (b) The term does not include:

28 (i) rental vehicle price discounts allowed and taken;

29 (ii) rental charges or other charges or fees imposed on the rental vehicle owner or operator of the rental
30 vehicle business for the privilege of operating as a concessionaire at an airport terminal building;

1 (iii) motor fuel;

2 (iv) intercity rental vehicle drop charges; or

3 (v) taxes imposed by the federal government or by state or local governments.

4 ~~(4)(5) (a) "Campground" means a place used for public camping where persons may camp, secure tents,~~
5 ~~or park individual recreational vehicles for camping and sleeping purposes.~~

6 ~~_____ (b) The term does not include that portion of a trailer court, trailer park, or mobile home park intended~~
7 ~~for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30 consecutive days or~~
8 ~~more has the meaning provided in 15-65-101.~~

9 ~~(5)(6) "Engaging in business" means carrying on or causing to be carried on any activity with the purpose~~
10 ~~of receiving direct or indirect benefit.~~

11 (7) "Intermediary" means any person, other than the owner or operator of the accommodations or the
12 owner or operator of a rental vehicle business, who collects an accommodation charge from a user or base rental
13 charge from a purchaser, or both.

14 ~~(6)(8) (a) "Lease", "leasing", or "rental" means any transfer of possession or control of tangible personal~~
15 ~~property for a fixed or indeterminate term for consideration. A lease or rental may include future options to~~
16 ~~purchase or extend.~~

17 (b) Lease or rental includes agreements covering motor vehicles and trailers when the amount of
18 consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the
19 property, as defined in 26 U.S.C. 7701(h)(1).

20 (c) The term does not include:

21 (i) a transfer of possession or control of property under a security agreement or deferred payment plan
22 that requires the transfer of title upon completion of the required payments;

23 (ii) a transfer of possession or control of property under an agreement that requires the transfer of title
24 upon completion of required payments and payment of an option price that does not exceed the greater of \$100
25 or 1% of the total required payments; or

26 (iii) providing tangible personal property with an operator if an operator is necessary for the equipment
27 to perform as designed and not just to maintain, inspect, or set up the tangible personal property.

28 (d) This definition must be used for sales tax and use tax purposes regardless of whether a transaction
29 is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code,
30 the Montana Uniform Commercial Code, or other provisions of federal, state, or local law.

1 (e) This definition must be applied only prospectively from the date of adoption and has no retroactive
2 impact on existing leases or rentals.

3 ~~(7)~~(9) (a) "Motor vehicle" means a light vehicle as defined in 61-1-101, a motorcycle as defined in
4 61-1-101, a motor-driven cycle as defined in 61-1-101, a quadricycle as defined in 61-1-101, a motorboat or a
5 sailboat as defined in 23-2-502, or an off-highway vehicle as defined in 23-2-801 that:

6 (i) is rented for a period of not more than 30 days;

7 (ii) is rented without a driver, pilot, or operator; and

8 (iii) is designed to transport 15 or fewer passengers.

9 (b) Motor vehicle includes:

10 (i) a rental vehicle rented pursuant to a contract for insurance; and

11 (ii) a truck, trailer, or semitrailer that has a gross vehicle weight of less than 22,000 pounds, that is rented
12 without a driver, and that is used in the transportation of personal property.

13 (c) The term does not include farm vehicles, machinery, or equipment.

14 ~~(8)~~(10) "Permit" or "seller's permit" means a seller's permit as described in 15-68-401.

15 ~~(9)~~(11) "Person" means an individual, estate, trust, fiduciary, corporation, partnership, limited liability
16 company, limited liability partnership, or any other legal entity.

17 ~~(10)~~(12) "Purchaser" means a person to whom a sale of personal property is made or to whom a service
18 is furnished.

19 ~~(11)~~(13) "Rental vehicle" means a motor vehicle that is used for or by a person other than the owner of
20 the motor vehicle through an arrangement and for consideration.

21 ~~(12)~~(14) "Retail sale" means any sale, lease, or rental for any purpose other than for resale, sublease,
22 or subrent. The term includes an intermediary's collection of an accommodation charge from a user and an
23 intermediary's collection of a base rental charge from a purchaser.

24 ~~(13)~~(15) "Sale" or "selling" means the transfer of property for consideration or the performance of a
25 service for consideration.

26 ~~(14)~~(16) (a) "Sales price" applies to the measure subject to sales tax and, except as provided in
27 subsections (16)(c) and (16)(d). means the total amount or consideration, including cash, credit, property, and
28 services, for which personal property or services are sold, leased, or rented or valued in money, whether received
29 in money or otherwise, without any deduction for the following:

30 (i) the seller's cost of the property sold;

1 (ii) the cost of materials used, labor or service costs, interest, losses, all costs of transportation to the
2 seller, all taxes imposed on the seller, and any other expense of the seller;

3 (iii) charges by the seller for any services necessary to complete the sale, other than delivery and
4 installation charges;

5 (iv) delivery charges;

6 (v) installation charges;

7 (vi) the value of exempt personal property given to the purchaser when taxable and exempt personal
8 property have been bundled together and sold by the seller as a single product or piece of merchandise; and

9 (vii) credit for any trade-in.

10 (b) The amount received for charges listed in subsections ~~(14)(a)(iii)~~ (16)(a)(iii) through ~~(14)(a)(vii)~~
11 (16)(a)(vii) are excluded from the sales price if they are separately stated on the invoice, billing, or similar
12 document given to the purchaser.

13 (c) When an intermediary collects an accommodation charge from a user, sales price means the
14 accommodation charge.

15 (d) When an intermediary collects a base rental charge from a purchaser, sales price means the base
16 rental charge.

17 ~~(e)~~(e) The term does not include:

18 (i) discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed
19 by a seller and taken by a purchaser on a sale;

20 (ii) interest, financing, and carrying charges from credit extended on the sale of personal property or
21 services if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

22 or

23 (iii) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of
24 sale, or similar document given to the purchaser.

25 ~~(f)~~(f) In an exchange in which the money or other consideration received does not represent the value
26 of the property or service exchanged, sales price means the reasonable value of the property or service
27 exchanged.

28 ~~(g)~~(g) When the sale of property or services is made under any type of charge or conditional or
29 time-sales contract or the leasing of property is made under a leasing contract, the seller or lessor shall treat the
30 sales price, excluding any type of time-price differential, under the contract as the sales price at the time of the

1 sale.

2 ~~(15)(17)~~ "Sales tax" and "use tax" mean the applicable tax imposed by 15-68-102 and, in the case of
3 accommodations, the tax imposed by 15-65-111.

4 ~~(16)(18)~~ "Seller" means a person that makes sales, leases, or rentals of personal property or services.
5 The term includes an intermediary that collects an accommodation charge from a user or a base rental charge
6 from a purchaser, or both.

7 ~~(17)(19)~~ (a) "Service" means an activity that is engaged in for another person for consideration and that
8 is distinguished from the sale or lease of property. Service includes activities performed by a person for its
9 members or shareholders.

10 (b) In determining what a service is, the intended use, principal objective, or ultimate objective of the
11 contracting parties is irrelevant.

12 ~~(18)(20)~~ "Use" or "using" includes use, consumption, or storage, other than storage for resale or for use
13 solely outside this state, in the ordinary course of business.

14 (21) "User" means a purchaser to whom the use of accommodations is provided."

15

16 **SECTION 101. SECTION 15-68-110, MCA, IS AMENDED TO READ:**

17 **"15-68-110. Collection of sales tax and use tax -- listing of business locations and agents --**
18 **severability.** (1) A person engaging in the business of selling property or services subject to taxation under this
19 chapter shall collect the sales tax from the purchaser and pay the sales tax collected to the department.

20 (2) A person engaging in business within this state shall, before making any sales subject to this chapter,
21 obtain a seller's permit, as provided in 15-68-401, and at the time of making a sale, whether within or outside the
22 state, collect the sales tax imposed by 15-68-102 from the purchaser and give to the purchaser a receipt, in the
23 manner and form prescribed by rule, for the sales tax paid.

24 (3) The department may authorize the collection of the sales tax imposed by 15-68-102 by any ~~retailer~~
25 person who does not maintain a place of business within this state but who, to the satisfaction of the department,
26 is in compliance with the law. When authorized, the person shall collect the use tax upon all property and services
27 that, to the person's knowledge, are for use within this state and subject to taxation under this chapter.

28 (4) All sales tax and use tax required to be collected and all sales tax and use tax collected by any
29 person under this chapter constitute a debt owed to this state by the person required to collect the sales tax and
30 use tax.

1 (5) A person engaging in business within this state that is subject to this chapter shall provide to the
2 department:

3 (a) the names and addresses of all of the person's agents operating within this state; and

4 (b) the location of each of the person's distribution houses or offices, sales houses or offices, and other
5 places of business within this state.

6 (6) If any application of this section is held invalid, the application to other situations or persons is not
7 affected."

8

9 **SECTION 102. SECTION 15-68-210, MCA, IS AMENDED TO READ:**

10 "**15-68-210. Nontaxability -- lease for subsequent lease.** (1) Except as provided in subsection (2), The
11 the lease of property is nontaxable if:

12 (1)(a) the lease is made to a lessee who delivers a nontaxable transaction certificate; and

13 (2)(b) the lessee does not use the property in any manner other than for subsequent lease in the ordinary
14 course of business.

15 (2) An intermediary's collection of an accommodation charge from a user or a base rental charge from
16 a purchaser is taxable."

17

18 **SECTION 103. SECTION 15-68-402, MCA, IS AMENDED TO READ:**

19 "**15-68-402. Permit application -- requirements -- place of business -- form.** (1) (a) A person that
20 wishes to engage in the business of making retail sales or providing services in Montana, collecting
21 accommodation charges for accommodations located in Montana, or collecting base rental charges for vehicles
22 located in Montana that are subject to this chapter shall file with the department an application for a permit. If the
23 person has more than one location in which the person maintains an office or other place of business, an
24 application may include multiple locations.

25 (b) ~~An~~ Except as provided in subsection (1)(c), an applicant who does not maintain an office or other
26 place of business ~~and in the state or~~ who moves from place to place is considered to have only one place of
27 business and shall attach the permit to the applicant's cart, stand, truck, or other merchandising device.

28 (c) An intermediary who does not maintain an office or other place of business in the state shall provide
29 a copy of the permit on request of the department or any user or purchaser.

30 (2) Each person or class of persons required to file a return under Title 15, chapter 65, or this chapter

1 is required to file an application for a permit.

2 (3) Each application for a permit must be on a form prescribed by the department and must set forth the
3 name under which the applicant intends to transact business, the location of the applicant's place or places of
4 business, and other information that the department may require. The application must be filed by the owner if
5 the owner is a natural person or by a person authorized to sign the application if the owner is a corporation,
6 partnership, limited liability company, or some other business entity."

7

8 **SECTION 104. SECTION 15-68-501, MCA, IS AMENDED TO READ:**

9 **"15-68-501. Liability for payment of tax -- security for retailer person without place of business**
10 **-- penalty.** (1) Liability for the payment of the sales tax and use tax is not extinguished until the taxes have been
11 paid to the department.

12 (2) A retailer person that does not maintain an office or other place of business within this state is liable
13 for the sales tax or use tax in accordance with this chapter and may be required to furnish adequate security, as
14 provided in 15-68-512, to ensure collection and payment of the taxes. When authorized and except as otherwise
15 provided in this chapter, the retailer person is liable for the taxes upon all property sold and services provided in
16 this state, accommodation charges collected for accommodations located in this state, and base rental charges
17 for vehicles located in this state in the same manner as a retailer person who maintains an office or other place
18 of business within this state. The seller's permit provided for in 15-68-401 may be canceled at any time if the
19 department considers the security inadequate or believes that the taxes can be collected more effectively in
20 another manner.

21 (3) An agent, canvasser, or employee of a retailer or intermediary doing business within this state may
22 not sell, solicit orders for, or deliver any property or services within Montana, collect any accommodation charges
23 for accommodations located within Montana, or collect any base rental charges for vehicles located in Montana
24 unless the principal, employer, intermediary, or retailer possesses a seller's permit issued by the department. If
25 an agent, canvasser, or employee violates the provisions of this chapter, the person is subject to a fine of not
26 more than \$100 for each separate transaction or event."

27

28 **SECTION 105. SECTION 15-68-502, MCA, IS AMENDED TO READ:**

29 **"15-68-502. Returns -- payment -- electronic filing for intermediaries -- authority of department.**

30 (1) (a) Except as provided in subsection (2), on or before the last day of the month following the calendar quarter

1 in which the transaction subject to the tax imposed by this chapter occurred, a return, on a form provided by the
 2 department, and payment of the tax for the preceding quarter must be filed with the department. Each person
 3 engaged in business within this state, ~~or~~ using property or services within this state that are subject to tax under
 4 this chapter, collecting an accommodation charge for an accommodation located in the state, or collecting a base
 5 rental charge for a vehicle located in the state shall file a return. ~~A~~ Except as provided in subsection (1)(b), a
 6 person making retail sales at two or more places of business shall file a separate return for each separate place
 7 of business.

8 (b) An intermediary collecting accommodation charges for two or more accommodations within the state
 9 or accommodation charges and base rental charges shall file a single return on a form provided by the
 10 department. The department shall, subject to the availability of resources, provide intermediaries with an
 11 electronic filing option for the reporting and remittance of the lodging facility use tax imposed under Title 15,
 12 chapter 65, and the sales and use tax imposed by this chapter.

13 (2) A person who has been issued a seasonal seller's permit shall file a return and pay the tax on the
 14 date or dates set by the department.

15 (3) (a) For the purposes of the sales tax or use tax, a return must be filed by:

16 (i) a retailer or intermediary required to collect the tax; and

17 (ii) a person that:

18 (A) purchases any items the storage, use, or other consumption of which is subject to the sales tax or
 19 use tax; and

20 (B) has not paid the tax to a retailer required to pay the tax.

21 (b) Each return must be authenticated by the person filing the return or by the person's agent authorized
 22 in writing to file the return.

23 (4) (a) A person required to collect and pay to the department the taxes imposed by this chapter shall
 24 keep records, render statements, make returns, and comply with the provisions of this chapter and the rules
 25 prescribed by the department. Each return or statement must include the information required by the rules of the
 26 department.

27 (b) For the purpose of determining compliance with the provisions of this chapter, the department is
 28 authorized to examine or cause to be examined any books, papers, records, ~~or~~ memoranda, or other documents
 29 relevant to making a determination of the amount of tax due, whether the books, papers, records, ~~or~~ memoranda,
 30 or other documents are the property of or in the possession of the person filing the return or another person. In

1 determining compliance, the department may use statistical sampling and other sampling techniques consistent
2 with generally accepted auditing standards. The department may also:

3 (i) require the attendance of a person having knowledge or information relevant to a return;

4 (ii) compel the production of books, papers, records, ~~or memoranda,~~ or other documents by the person
5 required to attend;

6 (iii) implement the provisions of 15-1-703 if the department determines that the collection of the tax is or
7 may be jeopardized because of delay;

8 (iv) take testimony on matters material to the determination; and

9 (v) administer oaths or affirmations.

10 (5) Pursuant to rules established by the department, returns may be computer-generated and
11 electronically filed."

12

13 **SECTION 106. SECTION 15-68-510, MCA, IS AMENDED TO READ:**

14 **"15-68-510. Vendor allowance.** (1) A person filing a timely return under 15-68-502 may claim a
15 quarterly vendor allowance for each permitted location in the amount of 5% of the tax determined to be payable
16 to the state, not to exceed \$1,000 a quarter. An intermediary filing a timely return under 15-68-502 may claim a
17 quarterly vendor allowance in the amount of 5% of the tax determined to be payable to the state, not to exceed
18 \$1,000 a quarter. The vendor allowance does not apply to the lodging facility use tax collected under 15-65-112.

19 (2) The allowance may be deducted on the return.

20 (3) A person that files a return or payment after the due date for the return or payment may not claim a
21 vendor allowance."

22

23 **SECTION 107. SECTION 15-68-512, MCA, IS AMENDED TO READ:**

24 **"15-68-512. Security -- limitations -- sale of security deposit at auction -- bond.** (1) The department
25 may require a retailer or an intermediary to deposit, with the department, security in a form and amount that the
26 department, by administrative rule, determines is appropriate. The deposit may not be more than twice the
27 estimated average liability, including the average tax liability for the tax imposed under Title 15, chapter 65, for
28 the period for which the return is required to be filed. The amount of security may be increased or decreased by
29 the department, subject to the limitations provided in this section.

30 (2) (a) If necessary, the department may sell, at public auction, property deposited as security to recover

1 any sales tax or use tax amount required to be collected, including interest and penalties.

2 (b) Notice of the sale must be served personally upon or sent by certified mail to the person that
3 deposited the security.

4 (c) After the sale, any surplus above the amount due that is not required as security under this section
5 must be returned to the person that deposited the security.

6 (3) In lieu of security, the department may require a retailer or an intermediary to file a bond, issued by
7 a surety company authorized to transact business within this state, to guarantee solvency and responsibility.

8 (4) In addition to the other requirements of this section, the department may require the corporate
9 officers, directors, or shareholders of a corporation to provide a personal guaranty and assumption of liability for
10 the payment of the tax due under this chapter."
11

12 **SECTION 108. SECTION 15-68-516, MCA, IS AMENDED TO READ:**

13 **"15-68-516. Authority to collect delinquent taxes.** (1) (a) The department shall collect taxes that are
14 delinquent as determined under 15-65-115 or this chapter, or both.

15 (b) If a tax imposed by 15-65-111 or this chapter, or both, or any portion of the tax is not paid when due,
16 the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

17 (2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal has
18 expired, the department may direct the offset of tax refunds or other funds due the taxpayer from the state, except
19 wages subject to the provisions of 25-13-614 and retirement benefits.

20 (3) As provided in 15-1-705, the taxpayer has the right to a review of the tax liability prior to any offset
21 by the department.

22 (4) The department may file a claim for state funds on behalf of the taxpayer if a claim is required before
23 funds are available for offset."
24

25 **SECTION 109. SECTION 16-11-149, MCA, IS AMENDED TO READ:**

26 **"16-11-149. Hearings before ~~state tax appeal board~~ department.** A person aggrieved by any action
27 of the department or its authorized agents taken to enforce the tax provisions of this part, except for a revocation
28 of a license pursuant to 16-11-144, may apply to the ~~state tax appeal board~~ department, in writing, for a hearing
29 or rehearing within 30 days after the action of the department or its authorized agents. The ~~board~~ department
30 shall promptly consider the application, set the application for hearing, and notify the applicant of the time and

1 place fixed for the hearing or rehearing, which may be at its office or in the county of the applicant. After the
 2 hearing or rehearing, the ~~board~~ department may make any further or other order in the premises as it may
 3 consider proper and lawful and shall furnish a copy to the applicant. The department, on its own initiative, may
 4 order a contested case hearing on any matter concerned with licensing, as defined in 2-4-102, in connection with
 5 the administration of this part upon at least 10 days' notice in writing to the person or persons to be investigated.
 6 A final order by the department may be appealed to the state tax appeal board."

7

8 **SECTION 110. SECTION 35-1-1104, MCA, IS AMENDED TO READ:**

9 **"35-1-1104. Annual report for secretary of state.** (1) Each domestic corporation and each foreign
 10 corporation authorized to transact business in this state shall deliver to the secretary of state, for filing, an annual
 11 report that sets forth:

- 12 (a) the name of the corporation and the state or country under whose law it is incorporated;
 13 (b) the mailing address and, if different, street address of its registered office and the name of its
 14 registered agent at that office in this state;
 15 (c) the address of its principal office;
 16 (d) the names and business addresses of its directors and principal officers;
 17 (e) a brief description of the nature of its business;
 18 (f) the total number of authorized shares, itemized by class and series, if any, within each class; ~~and~~
 19 (g) the total number of issued and outstanding shares, itemized by class and series, if any, within each
 20 class; and

21 (h) THE LAST FOUR DIGITS OF the corporation's federal tax identification number.

22 (2) Information in the annual report must be current as of the date the annual report is executed on behalf
 23 of the corporation.

24 (3) The first annual report must be delivered to the secretary of state between January 1 and April 15
 25 of the year following the calendar year in which a domestic corporation was incorporated or a foreign corporation
 26 was authorized to transact business. Subsequent annual reports must be delivered to the secretary of state
 27 between January 1 and April 15.

28 (4) If an annual report does not contain the information required by this section, the secretary of state
 29 shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for
 30 correction. If the report is corrected to contain the information required by this section and delivered to the

1 secretary of state within 30 days after the effective date of notice, it is considered to be timely filed.

2 (5) The tax identification of the corporation may not be disclosed except to the department of revenue
3 pursuant to 15-31-603."

4

5 **SECTION 111. SECTION 35-8-208, MCA, IS AMENDED TO READ:**

6 **"35-8-208. Annual report for secretary of state.** (1) A limited liability company or a foreign limited
7 liability company authorized to transact business in this state shall deliver to the secretary of state, for filing, an
8 annual report that sets forth:

9 (a) the name of the limited liability company and the state or country under whose law it is organized;

10 (b) the mailing address and, if different, street address of its registered office and the name of its
11 registered agent at that office in this state;

12 (c) the address of its principal office;

13 (d) (i) if the limited liability company is managed by a manager or managers, a statement that the
14 company is managed in that fashion and the names and street addresses of the managers;

15 (ii) if the management of a limited liability company is reserved to the members, a statement to that
16 effect;

17 (e) if the limited liability company is a professional limited liability company, a statement that all of its
18 members and not less than one-half of its managers are qualified persons with respect to the limited liability
19 company; and

20 (f) THE LAST FOUR DIGITS OF the limited liability company's tax identification number.

21 (2) Information in the annual report must be current as of the date the annual report is executed on behalf
22 of the limited liability company.

23 (3) The first annual report must be delivered to the secretary of state between January 1 and April 15
24 of the year following the calendar year in which a domestic limited liability company is organized or a foreign
25 limited liability company is authorized to transact business. Subsequent annual reports must be delivered to the
26 secretary of state between January 1 and April 15.

27 (4) If an annual report does not contain the information required by this section, the secretary of state
28 shall promptly notify the reporting domestic or foreign limited liability company in writing and return the report to
29 it for correction.

30 (5) The annual report must be executed by at least one member of the limited liability company and must

1 include the street address of the member.

2 (6) A domestic professional limited liability company or a foreign professional limited liability company
3 authorized to transact business in this state shall annually file before April 15, with each licensing authority having
4 jurisdiction over a professional service of a type described in its articles of organization, a statement of
5 qualification setting forth the names and addresses of the members and managers of the company and additional
6 information that the licensing authority may by rule prescribe as appropriate in determining whether the company
7 is complying with the provisions of part 13 of this chapter and rules promulgated under part 13 of this chapter.
8 The licensing authority may charge a fee to cover the cost of filing a statement of qualification.

9 (7) The tax identification number of the limited liability company may not be disclosed except to the
10 department of revenue pursuant to 15-31-603."

11

12 **SECTION 112. SECTION 61-3-321, MCA, IS AMENDED TO READ:**

13 **"61-3-321. Registration fees of vehicles and vessels -- certain vehicles exempt from registration**
14 **fees -- disposition of fees.** (1) Except as otherwise provided in this section, registration fees must be paid upon
15 registration or, if applicable, renewal of registration of motor vehicles, snowmobiles, watercraft, trailers,
16 semitrailers, and pole trailers as provided in subsections (2) through (18):

17 (2) (a) Except as provided in subsection (2)(b), there is a registration fee imposed on light vehicles. The
18 registration fee is in addition to other annual registration fees.

19 (b) The following vehicles are exempt from the registration fee imposed in this subsection (2):

20 (i) light vehicles that meet the description of property exempt from taxation under 15-6-201(1)(a), (1)(c),
21 (1)(d), (1)(e), (1)(f), (1)(g), (1)(i), (1)(j), (1)(l), or (1)(m), 15-6-203, or 15-6-215, except as provided in 61-3-520;

22 (ii) a light vehicle owned by a person eligible for a waiver of registration fees under 61-3-460;

23 (iii) a light vehicle registered under 61-3-456; and

24 (iv) a new light vehicle that has an average estimated rating of at least 35 miles per gallon for highway
25 driving, as reported in the current year's Fuel Economy Guide published by the U.S. department of energy and
26 the U.S. environmental protection agency or as reported in another national guide that contains the ratings from
27 the Fuel Economy Guide. To qualify for the exemption under this subsection (2)(b)(iv), the first-time registration
28 of the light vehicle must occur in Montana and the light vehicle must meet the conditions of a new motor vehicle
29 as defined in 61-1-101. The exemption applies only to the initial registration period and to the subsequent
30 registration period under 61-3-311 if the registration period is for 1 year. If the initial registration period is for 2

1 years, the exemption applies only to that registration period. The exemption period may not exceed 2 years.

2 (c) The owner of a light vehicle subject to the provisions of 61-3-313 through 61-3-316 may register the
3 light vehicle for a period not to exceed 24 months. The application for registration or reregistration must be
4 accompanied by the registration fee and all other fees required in this chapter for each 12-month period of the
5 24-month period.

6 (d) The annual registration fee for light vehicles, trucks and buses under 1 ton, and logging trucks less
7 than 1 ton is as follows:

8 (i) if the vehicle is 4 or less years old, \$217;

9 (ii) if the vehicle is 5 through 10 years old, \$87; and

10 (iii) if the vehicle is 11 or more years old, \$28;

11 (e) The owner of a light vehicle 11 years old or older may permanently register the light vehicle as
12 provided in 61-3-562.

13 (3) (a) Except as provided in subsection (3)(c), the owner of a trailer, semitrailer, or pole trailer that has
14 a declared weight of less than 6,000 pounds shall pay a one-time fee of \$61.25.

15 (b) The owner of a trailer, semitrailer, or pole trailer with a declared weight of 6,000 pounds or more shall
16 pay a one-time fee of \$148.25.

17 (c) Except as provided in subsection (17), whenever a transfer of ownership of a trailer, semitrailer, or
18 pole trailer described in subsection (3)(a) or (3)(b) occurs, the one-time fee required under subsection (3)(a) or
19 (3)(b) must be paid by the new owner.

20 (4) The annual registration fee for motor vehicles owned and operated solely as collector's items
21 pursuant to 61-3-411 that are for motor vehicles:

22 (a) 2,850 pounds and over, \$10; and

23 (b) under 2,850 pounds, \$5.

24 (5) (a) The registration fee for off-highway vehicles is \$61.25. This fee is a one-time fee, except upon
25 transfer of ownership of an off-highway vehicle. Except as provided in subsection (17), whenever a transfer of
26 ownership of an off-highway vehicle occurs, the one-time fee required under this subsection must be paid by the
27 new owner.

28 (b) The application for registration for an off-highway vehicle must be made to the county treasurer of
29 the county in which the owner resides, on a form furnished by the department for that purpose. The application
30 must contain:

- 1 (i) the name and home mailing address of the owner;
- 2 (ii) the certificate of title number;
- 3 (iii) the name of the manufacturer of the off-highway vehicle;
- 4 (iv) the model number or name;
- 5 (v) the year of manufacture;
- 6 (vi) a statement evidencing payment of the fee in lieu of property tax; and
- 7 (vii) other information that the department may require.
- 8 (c) If the off-highway vehicle was previously registered, the application must be accompanied by the
- 9 registration certificate for the most recent year in which it was registered. Upon payment of the registration fee,
- 10 the county treasurer shall sign the application and issue a registration receipt containing the information
- 11 considered necessary by the department. The owner shall retain possession of the registration receipt until it is
- 12 surrendered to the county treasurer or to a purchaser or subsequent owner pursuant to a transfer of ownership.
- 13 (6) The annual registration fee for heavy trucks, buses, and logging trucks in excess of 1 ton is \$22.75.
- 14 (7) (a) The owner of a motor home shall pay an annual fee based on the age of the motor home
- 15 according to the following schedule:
- 16 (i) less than 2 years old, \$282.50;
- 17 (ii) 2 years old and less than 5 years old, \$224.25;
- 18 (iii) 5 years old and less than 8 years old, \$132.50; and
- 19 (iv) 8 years old and older, \$97.50.
- 20 (b) (i) Except as provided in subsection (7)(b)(ii), the age of a motor home is determined by subtracting
- 21 the manufacturer's designated model year from the current calendar year.
- 22 (ii) If the purchase year of a motor home precedes the designated model year of the motor home and the
- 23 motor home is originally titled in Montana, then the purchase year is considered the model year for the purposes
- 24 of calculating the fee in lieu of tax.
- 25 (c) (i) The owner of a motor home 11 years old or older subject to the registration fee under subsection
- 26 (7)(a) may permanently register the motor home upon payment of:
- 27 (A) a fee of \$237.50; and
- 28 (B) if applicable, five times the personalized license plate fees under 61-3-406.
- 29 (ii) The following series of license plates may not be used for purposes of permanent registration of a
- 30 motor home:

- 1 (A) Montana national guard license plates issued under 61-3-458(2)(b);
- 2 (B) reserve armed forces license plates issued under 61-3-458(2)(c);
- 3 (C) license plates bearing a wheelchair design as a symbol of a person with a disability issued under
- 4 61-3-332(9);
- 5 (D) amateur radio operator license plates issued under 61-3-422;
- 6 (E) collegiate license plates issued under 61-3-465; and
- 7 (F) generic specialty license plates issued under 61-3-479.
- 8 (iii) Except as provided in subsection (17), whenever a transfer of ownership of a permanently registered
- 9 motor home occurs, the applicable fees required under this subsection (7) must be paid by the new owner.
- 10 (8) (a) The registration fee for motorcycles and quadricycles registered for use on public highways is
- 11 \$53.25, and the registration fee for motorcycles and quadricycles registered for both off-road use and for use on
- 12 the public highways is \$114.50.
- 13 (b) An additional fee of \$5 for a motorcycle or quadricycle with special license plates issued under
- 14 61-3-415 and, for a motorcycle or quadricycle under one-time registration, an additional fee of \$16 must be
- 15 collected for the registration of each motorcycle or quadricycle as a safety fee, which must be deposited in the
- 16 state motorcycle safety account provided for in 20-25-1002.
- 17 (c) The registration fees in this subsection (8) are a one-time fee, except upon transfer of ownership of
- 18 a motorcycle or quadricycle.
- 19 (9) (a) The registration fee for travel trailers under 16 feet in length is \$72 and the registration fee for
- 20 travel trailers 16 feet in length or longer is \$152. This fee is a one-time fee, except upon transfer of ownership
- 21 of a travel trailer.
- 22 (b) Except as provided in subsection (17), whenever a transfer of ownership of a travel trailer occurs,
- 23 the one-time fee required under subsection (9)(a) must be paid by the new owner.
- 24 (10) (a) The owner of each motorboat, sailboat, personal watercraft, or motorized pontoon requiring
- 25 numbering by this state shall file an application for number in the office of the county treasurer in the county where
- 26 the motorboat, sailboat, personal watercraft, or motorized pontoon is owned, on forms prepared and furnished
- 27 by the department. The application must be signed by the owner of the motorboat, sailboat, personal watercraft,
- 28 or motorized pontoon and be accompanied by the appropriate registration fee. The owner of a motorboat,
- 29 sailboat, personal watercraft, or motorized pontoon shall pay a one-time fee as follows:
- 30 (i) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length,

1 \$65.50;

2 (ii) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in length,
3 \$125.50; and

4 (iii) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, \$295.50.

5 (b) This fee is a one-time fee, except upon transfer of ownership of the motorboat, sailboat, personal
6 watercraft, or motorized pontoon.

7 (11) (a) Except as provided in subsection (11)(b), the one-time registration fee for a snowmobile is
8 \$60.50.

9 (b) If a snowmobile is licensed by a Montana business and is owned exclusively for the purpose of daily
10 rental to customers, the business is assessed:

11 (i) a fee of \$40.50 in the first year of registration; and

12 (ii) if the business reregisters the snowmobile for a second year, a fee of \$20. If the business reregisters
13 the snowmobile for a third year, the snowmobile must be permanently registered and the business is assessed
14 the fee in lieu of tax imposed in subsection (11)(a).

15 (c) Except as provided in subsection (17), whenever a transfer of ownership of a snowmobile occurs,
16 the applicable fee required under this subsection (11) must be paid by the new owner.

17 (12) A fee of \$5 must be collected when a new set of standard license plates or a new single standard
18 license plate provided for under 61-3-332 is issued.

19 (13) The provisions of this part with respect to the payment of registration fees do not apply to and are
20 not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled
21 by the United States of America or any state, county, city, or special district, as defined in 18-8-202.

22 (14) When the license plates for a registered motor vehicle are transferred to a replacement vehicle under
23 61-3-317, 61-3-332, or 61-3-335, the owner of the motor vehicle shall pay a registration fee as follows:

24 (a) heavy trucks, buses, and logging trucks in excess of 1 ton, 75 cents;

25 (b) light vehicles, trucks and buses under 1 ton, and logging trucks less than 1 ton:

26 (i) if the vehicle is 4 years old or less, \$195.75;

27 (ii) if the vehicle is 5 years old through 10 years old, \$65.75; and

28 (iii) if the vehicle is 11 years old or older, \$6.75;

29 (c) motor homes:

30 (i) less than 2 years old, \$250.50;

1 (ii) 2 years old and less than 5 years old, \$192.25;

2 (iii) 5 years old and less than 8 years old, \$100.50; and

3 (iv) 8 years old and older, \$65.50;

4 (d) motorcycles and quadricycles registered for use on the public highways, \$42, and motorcycles and
5 quadricycles registered for both off-road use and for use on the public highways, \$103.25. This fee is a one-time
6 fee, except upon transfer of ownership.

7 (e) travel trailers under 16 feet in length, \$50.50, and travel trailers 16 feet in length or longer, \$130.50.
8 This fee is a one-time fee, except upon transfer of ownership.

9 (f) trailers, semitrailers, or pole trailers with a declared weight of less than 6,000 pounds, \$52. This fee
10 is a one-time fee, except upon transfer of ownership.

11 (g) trailers, semitrailers, or pole trailers with a declared weight of 6,000 pounds or more, \$139. This fee
12 is a one-time fee, except upon transfer of ownership.

13 (15) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

14 (16) Except as otherwise provided in this section, revenue collected under this section must be deposited
15 in the state general fund.

16 (17) The fees imposed by subsections (2) through (11) are not required to be paid by a dealer for the
17 enumerated vehicles or vessels that constitute inventory of the dealership.

18 (18) (a) Unless a person exercises the option in subsection (18)(b), an additional fee of \$4 must be
19 collected for each light vehicle registered for licensing pursuant to this part. This fee must be accounted for and
20 transmitted separately from the registration fee. The fee must be deposited in an account in the state special
21 revenue fund to be used for state parks, for fishing access sites, and for the operation of state-owned facilities.
22 Of the \$4 fee, the department shall use \$3.50 for state parks, 25 cents for fishing access sites, and 25 cents for
23 the operation of state-owned facilities at Virginia City and Nevada City.

24 (b) A person who registers a light vehicle may, at the time of annual registration, certify that the person
25 does not intend to use the vehicle to visit state parks and fishing access sites and may make a written election
26 not to pay the additional \$4 fee provided for in subsection (18)(a). If a written election is made, the fee may not
27 be collected.

28 (19) For each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle,
29 quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of \$5 must be
30 collected and forwarded to the state for deposit in the account established in 44-1-504.

1 (20) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed by
2 61-3-721."

3

4 **SECTION 113. SECTION 72-3-1006, MCA, IS AMENDED TO READ:**

5 **"72-3-1006. Certificate.** (1) In probate proceedings under this code requiring the filing of a duplicate
6 United States estate tax return with the department of revenue pursuant to 72-16-906, a final distribution to
7 successors may not be made and petitions may not be granted under 72-3-1001, 72-3-1002, 72-3-1003, or
8 72-3-1004, unless there has been filed with the clerk:

9 (a) a certificate from the department of revenue stating that any estate tax due on the assets of the estate
10 has been paid or that no tax is payable; or

11 (b) an agreement with the department of revenue for extension of time for payment of estate taxes.

12 (2) This section does not prohibit a partial distribution that may become necessary in the course of
13 administration."

14

15 **SECTION 114. SECTION 77-1-213, MCA, IS AMENDED TO READ:**

16 **"77-1-213. Acceptance of gifts, donations, grants, legacies, and devises to the state.** (1) (a) The
17 board is hereby authorized and empowered to may accept on behalf of the state from any natural person
18 individual gifts, donations, grants, legacies, and devises having a value of not less than \$250 from each person.
19 All lands passing to acquired by the state under these the provisions of this section or through the operation of
20 as provided by law shall must be managed as other state lands; and the Subject to subsection (1)(b), the rents
21 and earnings shall from the land must be applied in accordance with the object and purpose specified by the
22 grantor, subject to all constitutional limitations.

23 (b) The board may accept on behalf of the state from any real estate investment trust any unrestricted
24 gift, donation, or grant of real property having a value of not less than \$250. All land passing to the state under
25 this subsection (1)(b) or as provided by law must be managed as other state lands.

26 (2) All Subject to subsection (1)(b), all money realized from the sale of such the lands and from other
27 property and all gifts, donations, grants, legacies, and devises made in money or the equivalent of money shall
28 other consideration must be administered by the board for the benefit of the specific purposes designated by the
29 person from whom they were received and as further regulated provided by this title. The provisions of this This
30 section shall apply applies to gifts, donations, grants, legacies, and devises already made to the state and now

1 under the administration of the board if not contrary to any specific provisions made therein by the persons from
2 whom they were received."

3
4 **NEW SECTION. SECTION 115. CREDIT FOR REAL ESTATE INVESTMENT TRUST CONTRIBUTION OF REAL**
5 **PROPERTY TO THE STATE. (1) EXCEPT AS PROVIDED IN SUBSECTION (4), A REAL ESTATE INVESTMENT TRUST IS ALLOWED**
6 **A CREDIT AGAINST TAXES OTHERWISE DUE UNDER THIS CHAPTER FOR THE FAIR MARKET VALUE OF REAL PROPERTY**
7 **CONTRIBUTED TO THE STATE THAT IS ACCEPTED BY THE BOARD OF LAND COMMISSIONERS AS PROVIDED IN 77-1-213 OR**
8 **77-1-214.**

9 **(2) THE AMOUNT OF THE CREDIT IS EQUAL TO 100% OF THE FAIR MARKET VALUE OF THE PROPERTY AS**
10 **DETERMINED UNDER 77-1-202(3).**

11 **(3) IF THE SUM OF CREDIT CARRYOVERS FROM THE CREDIT, IF ANY, AND THE AMOUNT OF CREDIT ALLOWED BY**
12 **THIS SECTION FOR THE TAX YEAR EXCEEDS THE TAXPAYER'S TAX LIABILITY FOR THE CURRENT TAX YEAR, THE EXCESS**
13 **ATTRIBUTABLE TO THE CURRENT TAX YEAR'S CREDIT IS A CREDIT CARRYOVER TO THE 3 SUCCEEDING TAX YEARS. THE**
14 **ENTIRE AMOUNT OF UNUSED CREDIT MUST BE CARRIED FORWARD TO THE EARLIEST OF THE SUCCEEDING YEARS, AND THE**
15 **OLDEST AVAILABLE UNUSED CREDIT MUST BE USED FIRST.**

16 **(4) THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT BE CLAIMED IF THE REAL ESTATE INVESTMENT TRUST**
17 **HAS CLAIMED THE CONTRIBUTION AS A DEDUCTION UNDER 15-31-114.**

18
19 **NEW SECTION. SECTION 116. NOTIFICATION TO TRIBAL GOVERNMENTS. THE SECRETARY OF STATE SHALL**
20 **SEND A COPY OF [THIS ACT] TO EACH TRIBAL GOVERNMENT LOCATED ON THE SEVEN MONTANA RESERVATIONS AND TO**
21 **THE LITTLE SHELL CHIPPEWA TRIBE.**

22
23 **NEW SECTION. Section 117. Codification instruction. (1) [Section 4] is [SECTIONS 1, 13 THROUGH**
24 **24, AND 41 THROUGH 46] ARE intended to be codified as an integral part of Title 15, chapter 30, PART 2, and the**
25 **provisions of Title 15, chapter 30, PART 2, apply to [section 4] [SECTIONS 1, 13 THROUGH 24, AND 41 THROUGH 46].**

26 **(2) [SECTIONS 2 THROUGH 8 AND 115] ARE INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 15,**
27 **CHAPTER 31, AND THE PROVISIONS OF TITLE 15, CHAPTER 31, APPLY TO [SECTIONS 2 THROUGH 8 AND 115].**

28 **(3) [SECTIONS 25 THROUGH 40] ARE INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 15, AND THE**
29 **PROVISIONS OF TITLE 15 APPLY TO [SECTIONS 25 THROUGH 40].**

30

1 COORDINATION SECTION. SECTION 118. COORDINATION INSTRUCTION. IF [THIS ACT] AND SENATE BILL
 2 NO. 514 ARE BOTH PASSED AND APPROVED, THEN [SECTION 2] OF SENATE BILL NO. 514 IS VOID.

3
 4 NEW SECTION. SECTION 119. SEVERABILITY. IF A PART OF [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE
 5 SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS ACT] IS INVALID IN ONE OR MORE OF ITS
 6 APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID
 7 APPLICATIONS.

8
 9 NEW SECTION. SECTION 120. CONTINGENT VOIDNESS. (1) IF FUNDS ARE NOT APPROPRIATED FOR THE
 10 PROPERTY TAX REFUNDS PROVIDED IN [SECTIONS 9 THROUGH 12], THEN [SECTIONS 9 THROUGH 12] ARE VOID.

11 (2) IF FUNDS ARE NOT APPROPRIATED TO REPLACE THE REVENUE LOST TO CITIES, TOWNS, COUNTIES, LOCAL
 12 SCHOOLS, AND SPECIAL DISTRICTS FROM THE EXEMPTIONS PROVIDED IN [SECTIONS 55 AND 56], THEN [SECTIONS 55 AND
 13 56] ARE VOID.

14
 15 NEW SECTION. SECTION 121. Effective date DATES -- CONTINGENCY. (1) [This act] is [SECTIONS 1
 16 THROUGH 12, 25 THROUGH 47, 50 THROUGH 84, 86 THROUGH 92, 109, AND 115] ARE effective on passage and
 17 approval.

18 (2) [SECTIONS 48, 49, 93 THROUGH 108, 113, 114, AND 116 THROUGH 123] ARE EFFECTIVE JULY 1, 2007.

19 (3) [SECTIONS 13 THROUGH 24, ~~85, AND 110~~ THROUGH AND 112] ARE EFFECTIVE JANUARY 1, 2008.

20 (4) [SECTIONS 85, 110, AND 111] ARE EFFECTIVE ON THE LATER OF JANUARY 1, 2008, OR THE DATE WHEN THE
 21 DEPARTMENT OF REVENUE CERTIFIES THE SECURITY OF THE SECRETARY OF STATE'S MAINFRAME APPLICATION AND OTHER
 22 RELEVANT COMPUTER APPLICATIONS AND PROCESSES. THE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL NOTIFY
 23 THE GOVERNOR, THE SECRETARY OF STATE, AND THE CODE COMMISSIONER WHEN THE SECURITY OF THE MAINFRAME
 24 APPLICATION IS CERTIFIED.

25
 26 NEW SECTION. SECTION 122. Retroactive applicability. (1) [This act] applies [SECTIONS 2 THROUGH
 27 8, 58 THROUGH 72, 75 THROUGH 82, 84 THROUGH 92, AND 115] APPLY retroactively, within the meaning of 1-2-109,
 28 to tax years beginning after December 31, 2006.

29 (2) [SECTIONS 9 THROUGH 11] APPLY RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO 2006 MONTANA
 30 PROPERTY TAXES PAID BEFORE THE EFFECTIVE DATE OF [SECTIONS 9 THROUGH 11].

1 (3) [SECTION 12] APPLIES RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO RENT PAID DURING 2006.

2 (4) THE PROVISIONS OF [SECTION 27(1) AND (2)] APPLY RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO
3 ANY REPORTABLE TRANSACTION ENTERED INTO AFTER FEBRUARY 28, 2000, FOR ANY TAX YEAR OR YEARS FOR WHICH
4 THE TRANSACTION REMAINS UNDISCLOSED AND FOR WHICH THE STATUTE OF LIMITATIONS ON ASSESSMENT HAS NOT
5 EXPIRED AS OF [60 DAYS AFTER THE EFFECTIVE DATE OF SECTIONS 25 THROUGH 31].

6 (5) (A) EXCEPT AS PROVIDED IN SUBSECTION (5)(B), THE PROVISIONS OF [SECTION 36] APPLY RETROACTIVELY,
7 WITHIN THE MEANING OF 1-2-109, TO INFORMATION ASSOCIATED WITH ANY RETURN DUE ON OR AFTER [THE DATE 2 YEARS
8 BEFORE THE EFFECTIVE DATE OF [SECTIONS 35 THROUGH 37].

9 (B) THE PROVISIONS OF [SECTION 36(2)(B)] APPLY RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO ANY
10 TAX YEAR FOR WHICH THE STATUTE OF LIMITATIONS ON ASSESSMENT HAS NOT EXPIRED.

11 (6) THE PROVISIONS OF [SECTION 54] APPLY RETROACTIVELY WITHIN THE MEANING OF 1-2-109, TO NEW RURAL
12 TELECOMMUNICATION PROPERTY PLACED IN SERVICE AFTER DECEMBER 31, 2006.

13 (7) THE PROVISIONS OF [SECTIONS 55 AND 56] APPLY TO PROPERTY TAX YEARS BEGINNING AFTER DECEMBER
14 31, 2007.

15 (8) [SECTION 83] APPLIES RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO TAX YEARS BEGINNING AFTER
16 DECEMBER 31, 2002.

17
18 NEW SECTION. SECTION 123. APPLICABILITY. (1) [SECTION 1] APPLIES TO PAYMENTS MADE AFTER
19 DECEMBER 31, 2007.

20 (2) [SECTIONS 13 THROUGH 24] APPLY TO ROYALTY PAYMENTS MADE AFTER DECEMBER 31, 2007.

21 (3) THE PROVISIONS OF [SECTIONS 32 THROUGH 37] APPLY TO TAX YEARS BEGINNING AFTER DECEMBER 31,
22 2008.

23 (4) THE PENALTIES IMPOSED UNDER THE PROVISIONS OF [SECTION 37] APPLY TO ANY FAILURE TO FILE, RETAIN,
24 OR PROVIDE ANY INFORMATION REQUIRED PURSUANT TO [SECTION 34, 35, OR 36] WITH RESPECT TO ANY TAX YEAR
25 ENDING ON OR AFTER [THE EFFECTIVE DATE OF SECTIONS 34 THROUGH 38].

26 (5) THE PROVISIONS OF [SECTIONS 41 THROUGH 46] APPLY TO TRANSFER OF MONTANA REAL ESTATE
27 OCCURRING AFTER SEPTEMBER 30, 2007.

28 (6) [SECTIONS 1, 51, 58, 61 THROUGH 63, 73, 87 THROUGH 89, AND 114] APPLY TO TAX YEARS BEGINNING
29 AFTER DECEMBER 31, 2007.

30 - END -