

HOUSE BILL NO. 564  
INTRODUCED BY T. MCGILLVRAY

A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING INDIVIDUAL INCOME TAX RATES; INCREASING THE DEDUCTION FOR FEDERAL INCOME TAXES PAID BY MARRIED TAXPAYERS; PROVIDING AN INFLATION ADJUSTMENT FOR THE DEDUCTION FOR FEDERAL INCOME TAXES PAID; INCREASING THE STANDARD DEDUCTION FOR MARRIED TAXPAYERS AND HEAD OF HOUSEHOLD TAXPAYERS; AMENDING SECTIONS 15-30-103, 15-30-121, AND 15-30-122, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

**Section 1.** Section 15-30-103, MCA, is amended to read:

**"15-30-103. Rate of tax.** (1) There must be levied, collected, and paid for each tax year upon the taxable income of each taxpayer subject to this tax, after making allowance for exemptions and deductions as provided in this chapter, a tax on the brackets of taxable income as follows:

- (a) on the first \$2,300 of taxable income or any part of that income, ~~4%~~ 0.8%;
- (b) on the next \$1,800 of taxable income or any part of that income, ~~2%~~ 1.8%;
- (c) on the next \$2,100 of taxable income or any part of that income, ~~3%~~ 2.8%;
- (d) on the next \$2,200 of taxable income or any part of that income, ~~4%~~ 3.8%;
- (e) on the next \$2,400 of taxable income or any part of that income, ~~5%~~ 4.8%;
- (f) on the next \$3,100 of taxable income or any part of that income, ~~6%~~ 5.8%;
- (g) on any taxable income in excess of \$13,900 or any part of that income, ~~6.9%~~ 6.7%.

(2) By November 1 of each year, the department shall multiply the bracket amount contained in subsection (1) by the inflation factor for that tax year and round the cumulative brackets to the nearest \$100. The resulting adjusted brackets are effective for that tax year and must be used as the basis for imposition of the tax in subsection (1) of this section."

**Section 2.** Section 15-30-121, MCA, is amended to read:

**"15-30-121. Deductions allowed in computing net income.** (1) In computing net income, there are allowed as deductions:

(a) the items referred to in sections 161, including the contributions referred to in 33-15-201(5)(b), and 211 of the Internal Revenue Code, 26 U.S.C. 161 and 211, subject to the following exceptions, which are not deductible:

- (i) items provided for in 15-30-123;
- (ii) state income tax paid;
- (iii) premium payments for medical care as provided in subsection (1)(g)(i);
- (iv) long-term care insurance premium payments as provided in subsection (1)(g)(ii); and
- (v) a charitable contribution using a charitable gift annuity unless the annuity is a qualified charitable gift annuity as defined in 33-20-701;

(b) as adjusted in subsection (3), federal income tax paid within the tax year, not to exceed:

- (i) \$5,000 for each taxpayer filing singly; or as head of household;
- ~~(ii) or \$5,500 for each married taxpayer married~~ filing separately; or
- ~~(iii) \$10,000 if~~ \$11,000 for married ~~and~~ taxpayers filing jointly;

(c) expenses of household and dependent care services as outlined in subsections (1)(c)(i) through (1)(c)(iii) and (2) and subject to the limitations and rules as set out in subsections (1)(c)(iv) through (1)(c)(vi), as follows:

- (i) expenses for household and dependent care services necessary for gainful employment incurred for:
  - (A) a dependent under 15 years of age for whom an exemption can be claimed;
  - (B) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross income do not apply, who is unable to provide self-care because of physical or mental illness; and
  - (C) a spouse who is unable to provide self-care because of physical or mental illness;
- (ii) employment-related expenses incurred for the following services, but only if the expenses are incurred to enable the taxpayer to be gainfully employed:
  - (A) household services that are attributable to the care of the qualifying individual; and
  - (B) care of an individual who qualifies under subsection (1)(c)(i);
- (iii) expenses incurred in maintaining a household if over half of the cost of maintaining the household is furnished by an individual or, if the individual is married during the applicable period, is furnished by the individual and the individual's spouse;
- (iv) the amounts deductible in subsections (1)(c)(i) through (1)(c)(iii), subject to the following limitations:
  - (A) a deduction is allowed under subsection (1)(c)(i) for employment-related expenses incurred during the year only to the extent that the expenses do not exceed \$4,800;

(B) expenses for services in the household are deductible under subsection (1)(c)(i) for employment-related expenses only if they are incurred for services in the taxpayer's household, except that employment-related expenses incurred for services outside the taxpayer's household are deductible, but only if incurred for the care of a qualifying individual described in subsection (1)(c)(i)(A) and only to the extent that the expenses incurred during the year do not exceed:

- (I) \$2,400 in the case of one qualifying individual;
- (II) \$3,600 in the case of two qualifying individuals; and
- (III) \$4,800 in the case of three or more qualifying individuals;

(v) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the tax year during which the expenses are incurred, the amount of the employment-related expenses incurred, to be reduced by one-half of the excess of the combined adjusted gross income over \$18,000;

(vi) for purposes of this subsection (1)(c):

(A) married couples shall file a joint return or file separately on the same form;

(B) if the taxpayer is married during any period of the tax year, employment-related expenses incurred are deductible only if:

(I) both spouses are gainfully employed, in which case the expenses are deductible only to the extent that they are a direct result of the employment; or

(II) the spouse is a qualifying individual described in subsection (1)(c)(i)(C);

(C) an individual legally separated from the individual's spouse under a decree of divorce or of separate maintenance may not be considered as married;

(D) the deduction for employment-related expenses must be divided equally between the spouses when filing separately on the same form;

(E) payment made to a child of the taxpayer who is under 19 years of age at the close of the tax year and payments made to an individual with respect to whom a deduction is allowable under 15-30-112(5) are not deductible as employment-related expenses;

(d) in the case of an individual, political contributions determined in accordance with the provisions of section 218(a) and (b) of the Internal Revenue Code of 1954 (now repealed) that were in effect for the tax year that ended December 31, 1978;

(e) that portion of expenses for organic fertilizer and inorganic fertilizer produced as a byproduct allowed as a deduction under 15-32-303 that was not otherwise deducted in computing taxable income;

(f) contributions to the child abuse and neglect prevention program provided for in 52-7-101, subject to

the conditions set forth in 15-30-156;

(g) the entire amount of premium payments made by the taxpayer, except premiums deducted in determining Montana adjusted gross income, or for which a credit was claimed under 15-30-128, for:

(i) insurance for medical care, as defined in 26 U.S.C. 213(d), for coverage of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the taxpayer; and

(ii) long-term care insurance policies or certificates that provide coverage primarily for any qualified long-term care services, as defined in 26 U.S.C. 7702B(c), for:

(A) the benefit of the taxpayer for tax years beginning after December 31, 1994; or

(B) the benefit of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the taxpayer for tax years beginning after December 31, 1996;

(h) light vehicle registration fees, as provided for in 61-3-321(2) and 61-3-562, paid during the tax year; and

(i) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-209, 81-7-118, or 81-7-201.

(2) (a) Subject to the conditions of subsection (1)(c), a taxpayer who operates a family day-care home or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's own child and at least one unrelated child in the ordinary course of business may deduct employment-related expenses considered to have been paid for the care of the child.

(b) The amount of employment-related expenses considered to have been paid by the taxpayer is equal to the amount that the taxpayer charges for the care of a child of the same age for the same number of hours of care. The employment-related expenses apply regardless of whether any expenses actually have been paid. Employment-related expenses may not exceed the amounts specified in subsection (1)(c)(iv)(B).

(c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the deduction under this subsection (2).

(3) (a) The department, by November 1 of each year, shall multiply the deductions for federal income taxes paid that are allowed in subsection (1)(b) by the inflation factor for that tax year and round the product to the nearest \$10. The resulting adjusted deductions are effective for that tax year and must be used in calculating the tax imposed in 15-30-103.

(b) For the purposes of this subsection (3), "inflation factor" means a number determined for each tax year by dividing the consumer price index for June of the tax year by the consumer price index for June 2007."

**Section 3.** Section 15-30-122, MCA, is amended to read:

**"15-30-122. Standard deduction.** (1) ~~(a) A~~ Except as provided in subsection (1)(b), a standard deduction equal to 20% of adjusted gross income is allowed if elected by the taxpayer on a return. The standard deduction is in lieu of all deductions allowed under 15-30-121. The minimum standard deduction is \$1,580, as adjusted under the provisions of subsection (2), or 20% of adjusted gross income, whichever is greater, to a maximum standard deduction of \$3,560, as adjusted under the provisions of subsection (2).

~~(b) However, in the case of a single joint return of husband and wife or in the case of~~ For married taxpayers filing separately on the same return or jointly or for a single individual who qualifies to file as a head of household on the federal income tax return, the minimum standard deduction is ~~twice~~ 2.2 times the amount of the minimum standard deduction for a single return, as adjusted under the provisions of subsection (2), or ~~20%~~ 22% of adjusted gross income, whichever is greater, to a maximum standard deduction of ~~twice~~ 2.2 times the amount of the maximum standard deduction for a single return, as adjusted under the provisions of subsection (2). The standard deduction may not be allowed to either the husband or the wife if the tax of one of the spouses is determined without regard to the standard deduction. For purposes of this section, the determination of whether an individual is married must be made as of the last day of the tax year unless one of the spouses dies during the tax year, in which case the determination must be made as of the date of death.

(2) By November 1 of each year, the department shall multiply both the minimum and the maximum standard deduction for single returns by the inflation factor for that tax year and round the product to the nearest \$10. The resulting adjusted deductions are effective for that tax year and must be used in calculating the tax imposed in 15-30-103."

NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 5. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2006.

- END -

