

HOUSE BILL NO. 391

INTRODUCED BY T. JACOBSON, K. ABBOTT, F. ANDERSON, J. BACHMEIER, Z. BROWN, R. COOK,
 V. COURT, A. CURTIS, G. CUSTER, M. DUNWELL, D. FERN, J. FLEMING, M. FUNK, F. GARNER,
 E. GREEF, J. HAMILTON, B. HAMLETT, A. HERTZ, J. KEANE, K. KELKER, J. KNOKEY, D. LOGE,
 R. LYNCH, N. MCCONNELL, S. MORIGEAU, A. OLSEN, J. PATELIS, Z. PERRY, G. PIERSON,
 J. POMNICHOWSKI, J. PRICE, V. RICCI, C. SCHREINER, B. SMITH, J. TREBAS, B. TSCHIDA, P. WEBB,
 S. WEBBER, T. WELCH, K. WHITE, J. WINDY BOY

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING FOR A REFUNDABLE EARNED INCOME CREDIT
 BASED ON A PERCENTAGE OF THE FEDERAL EARNED INCOME CREDIT; PROVIDING THAT THE CREDIT
 MAY NOT BE CLAIMED FOR CERTAIN INCOME; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Earned income tax credit. (1) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (3),
~~A~~ resident taxpayer is allowed as a credit against the tax imposed by 15-30-2103 a percentage of the credit
 allowed for the federal earned income credit for which the individual taxpayer is eligible for the tax year under
 section 32 of the Internal Revenue Code, 26 U.S.C. 32.

(2) The amount of the credit allowed under subsection (1) is ~~40%~~ 3% of the amount of the credit
 determined for the tax year under section 32 of the Internal Revenue Code, 26 U.S.C. 32.

(3) (A) Except for married taxpayers living apart who are treated as single under section 7703(b) of the
 Internal Revenue Code, 26 U.S.C. 7703(b), the credit is not allowed to married taxpayers if the spouses report
 their income on separate tax forms. Married taxpayers filing separately on the same form may allocate the credit
 between spouses.

(B) THE CREDIT IS NOT ALLOWED ON EARNED INCOME THAT IS TREATED AS A DIVIDEND RECEIVED BY A MEMBER
 OF AN AGRICULTURAL ORGANIZATION PROVIDED FOR IN SECTION 501(D) OF THE INTERNAL REVENUE CODE, 26 U.S.C.
 501(D). FOR THE PURPOSE OF THIS SUBSECTION (3)(B), THE AMOUNT OF THE STATE TAX CREDIT PROVIDED FOR IN
 SUBSECTION (2) IS REDUCED BY THE REDUCTION PERCENTAGE.

(4) The taxpayer is entitled to a refund equal to the amount by which the credit exceeds the taxpayer's
 tax liability or, if the taxpayer has no tax liability under this chapter, a refund equal to the amount of the credit. The

1 credit may be claimed by filing a Montana income tax return.

2 (5) FOR THE PURPOSE OF THIS SECTION, THE FOLLOWING DEFINITIONS APPLY:

3 (A) "EARNED INCOME" MEANS EARNED INCOME, AS DEFINED IN SECTION 32 OF THE INTERNAL REVENUE CODE,
4 26 U.S.C. 32, THAT WAS USED TO DETERMINE THE AMOUNT OF THE FEDERAL EARNED INCOME TAX CREDIT UNDER
5 SUBSECTION (2).

6 (B) "REDUCTION PERCENTAGE" MEANS A PERCENTAGE THAT IS CALCULATED BY DIVIDING THE EARNED INCOME
7 THAT IS DISALLOWED UNDER SUBSECTION (3)(B) BY THE TOTAL AMOUNT OF EARNED INCOME.

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9 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an
10 integral part of Title 15, chapter 30, part 23, and the provisions of Title 15, chapter 30, part 23, apply to [section
11 1].

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13 NEW SECTION. SECTION 3. SEVERABILITY. IF A PART OF [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE
14 SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS ACT] IS INVALID IN ONE OR MORE OF ITS
15 APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID
16 APPLICATIONS.

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18 NEW SECTION. Section 4. Applicability. [This act] applies to income tax years beginning after
19 December 31, ~~2017~~ 2018.

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