



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2023 Biennium

Bill # SB0184

Title: Montana Entrepreneur Magnet Act

Primary Sponsor: Blasdel, Mark

Status: As Introduced

- Significant Local Gov Impact
 Needs to be included in HB 2
 Technical Concerns
 Included in the Executive Budget
 Significant Long-Term Impacts
 Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2022 Difference</u>	<u>FY 2023 Difference</u>	<u>FY 2024 Difference</u>	<u>FY 2025 Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of fiscal impact: SB 184 creates a tax rate of 0% for qualifying net long-term capital gains income. The tax rate applies to the long-term capital gain income attributable to the sale of, or an exchange of stock, as a result of employment or service as a director of a qualifying Montana corporation. Corporations would have to meet Montana tenure and employment conditions. The proposed bill will have no fiscal impact in fiscal years 2022 through 2025. Potential revenue impacts could be seen starting in FY 2026.

FISCAL ANALYSIS

Assumptions:

Department of Revenue

- Under present law, long-term net capital gains are taxed as income (with a top marginal rate of 6.9%) and receive a non-refundable capital gains income credit of 2%, effectively lowering the top rate to 4.9% for all capital gains income.
- SB 184 creates a new 0% tax rate that applies to certain net long-term capital gains income. That income must be from the sale of certain Montana corporations stock that meet tenure and employment criteria. The new tax rate only applies to net long-term capital gains that are attributable to the sale or exchange of common or preferred stock of a corporation that is acquired as the result of service as an employee, or director, with the corporation.

- For an individual’s gains to qualify for the rate, the corporation whose capital stock the individual sells, or exchanges, must also meet several other qualifications. These include: first, the corporation must have at least 60 consecutive months of new business activity in the state, with the first qualifying business activity occurring on or after January 1, 2021; second, more than half of the corporation’s corporate officers must have resided in the state for the previous 36 months; third, at least 30% of the corporation’s employees must reside in Montana for the previous 12 months; and finally, there must be at least 25 full-time employees residing in the state for the previous 36 months.
- The qualifying period for in-state activity begins after December 31, 2020, this defers qualifying net capital gains to sales after December 2025. SB 184 would have no capital gains state revenue effect until FY 2026.
- The changes made by the proposed bill can be made as part of the department’s annual change process. The department does not expect to incur significant additional costs because of this bill.

<u>Fiscal Impact:</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
Department of Revenue	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>
FTE	0.00	0.00	0.00	0.00
<u>Expenditures:</u>				
Personal Services	\$0	\$0	\$0	\$0
TOTAL Expenditures	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
TOTAL Funding of Exp.	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
TOTAL Revenues	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	\$0	\$0	\$0	\$0

Long-Term Impacts:

- There is the potential for revenue impacts once qualified corporations have operated in the state long enough to meet the staffing and tenure requirements for their sale of capital stock to qualify for the new tax rate. The revenue impact is expected to be small, starting in tax year 2026. However, the impact may increase over time. For each \$1 million in qualified net-long-term capital gains that qualifies for the new rate, general fund revenue would be \$49,000 lower than present law.

Technical Notes:

- The structure of the bill would result in the taxpayers not being eligible to claim the existing 2% capital gains credit for these qualified net long-term capital gains.

NO SPONSOR SIGNATURE

Sponsor's Initials

2/11/21

Date

KA

Budget Director's Initials

2/9/21

Date