

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

HOUSE BILL NO. 219

INTRODUCED BY S. KERNS, F. ANDERSON, M. STROMSWOLD, G. NIKOLAKAKOS, B. MITCHELL, .  
DURAM, L. SHELDON-GALLOWAY, G. FRAZER, R. FITZGERALD, T. BROCKMAN, J. FULLER, J. SMALL,  
S. HINEBAUCH, D. LENZ, P. GREEN, J. TREBAS, J. KASSMIER, B. PHALEN, L. HELLEGAARD, T. SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING CERTAIN MILITARY PENSIONS OR RETIREMENT  
INCOME AND SURVIVOR BENEFITS FROM STATE INCOME TAXATION; PROVIDING THE EXEMPTION  
TO RETIRED MEMBERS OF THE ARMED FORCES, A RESERVE COMPONENT, OR THE NATIONAL  
GUARD; PHASING IN THE EXEMPTION BASED ON RETIREMENT INCOME; AMENDING SECTION 15-30-  
2120, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE."

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

**Section 1.** Section 15-30-2120, MCA, is amended to read:

**"15-30-2120. (Effective January 1, 2024) Adjustments to federal taxable income to determine Montana taxable income.** (1) The items in subsection (2) are added to and the items in subsection (3) are subtracted from federal taxable income to determine Montana taxable income.

(2) The following are added to federal taxable income:

(a) to the extent that it is not exempt from taxation by Montana under federal law, interest from obligations of a territory or another state or any political subdivision of a territory or another state and exempt-interest dividends attributable to that interest except to the extent already included in federal taxable income;

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

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

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

(e) an item of income, deduction, or expense to the extent that it was used to calculate federal

1 taxable income if the item was also used to calculate a credit against a Montana income tax liability;

2 (f) a deduction for an income distribution from an estate or trust to a beneficiary that was included  
3 in the federal taxable income of an estate or trust in accordance with sections 651 and 661 of the Internal  
4 Revenue Code, 26 U.S.C. 651 and 661;

5 (g) a withdrawal from a medical care savings account provided for in Title 15, chapter 61, used for  
6 a purpose other than an eligible medical expense or long-term care of the employee or account holder or a  
7 dependent of the employee or account holder;

8 (h) a withdrawal from a first-time home buyer savings account provided for in Title 15, chapter 63,  
9 used for a purpose other than for eligible costs for the purchase of a single-family residence;

10 (i) for a taxpayer that deducts the qualified business income deduction pursuant to section 199A  
11 of the Internal Revenue Code, 26 U.S.C. 199A, an amount equal to the qualified business income deduction  
12 claimed; and

13 (j) for a taxpayer that deducts state income taxes pursuant to section 164(a)(3) of the Internal  
14 Revenue Code, 26 U.S.C. 164(a)(3), an additional amount equal to the state income tax deduction claimed, not  
15 to exceed the amount required to reduce the federal itemized amount computed under section 161 of the  
16 Internal Revenue Code, 26 U.S.C. 161, to the amount of the federal standard deduction allowable under  
17 section 63(c) of the Internal Revenue Code, 26 U.S.C. 63(c).

18 (3) To the extent they are included as income or gain or not already excluded as a deduction or  
19 expense in determining federal taxable income, the following are subtracted from federal taxable income:

20 (a) a deduction for an income distribution from an estate or trust to a beneficiary in accordance  
21 with sections 651 and 661 of the Internal Revenue Code, 26 U.S.C. 651 and 661, recalculated according to the  
22 additions and subtractions in subsections (2) and (3)(b) through (3)(m);

23 (b) if exempt from taxation by Montana under federal law:

24 (i) interest from obligations of the United States government and exempt-interest dividends  
25 attributable to that interest; and

26 (ii) railroad retirement benefits;

27 (c) (i) salary received from the armed forces by residents of Montana who are serving on active  
28 duty in the regular armed forces and who entered into active duty from Montana;

**Amendment - 1st Reading-white - Requested by: Jill Cohenour - (H) Taxation**

- 2023

68th Legislature 2023

Drafter: Megan Moore, 406-444-4496

HB0219.001.004

1 (ii) the salary received by residents of Montana for active duty in the national guard. For the  
2 purposes of this subsection (3)(c)(ii), "active duty" means duty performed under an order issued to a national  
3 guard member pursuant to:

4 (A) Title 10, U.S.C.; or

5 (B) Title 32, U.S.C., for a homeland defense activity, as defined in 32 U.S.C. 901, or a contingency  
6 operation, as defined in 10 U.S.C. 101, and the person was a member of a unit engaged in a homeland  
7 defense activity or contingency operation.

8 (iii) the amount received pursuant to 10-1-1114 or from the federal government by a service  
9 member, as defined in 10-1-1112, as reimbursement for group life insurance premiums paid;

10 (iv) the amount received by a beneficiary pursuant to 10-1-1201; and

11 (v) all payments made under the World War I bonus law, the Korean bonus law, and the veterans'  
12 bonus law. Any income tax that has been or may be paid on income received from the World War I bonus law,  
13 Korean bonus law, and the veterans' bonus law is considered an overpayment and must be refunded upon the  
14 filing of an amended return and a verified claim for refund on forms prescribed by the department in the same  
15 manner as other income tax refund claims are paid.

16 (d) interest and other income related to contributions that were made prior to January 1, 2024, that  
17 are retained in a medical care savings account provided for in Title 15, chapter 61, and any withdrawal for  
18 payment of eligible medical expenses or for the long-term care of the employee or account holder or a  
19 dependent of the employee or account holder;

20 (e) contributions or earnings withdrawn from a family education savings account provided for in  
21 Title 15, chapter 62, or from a qualified tuition program established and maintained by another state as  
22 provided in section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified  
23 education expenses, as defined in 15-62-103, of a designated beneficiary;

24 (f) interest and other income related to contributions that were made prior to January 1, 2024, that  
25 are retained in a first-time home buyer savings account provided for in Title 15, chapter 63, and any withdrawal  
26 for payment of eligible costs for the first-time purchase of a single-family residence;

27 (g) for each taxpayer that has attained the age of 65, an additional subtraction of \$5,500;

28 (h) the amount of a scholarship to an eligible student by a student scholarship organization

**Amendment - 1st Reading-white - Requested by: Jill Cohenour - (H) Taxation**

- 2023

68th Legislature 2023

Drafter: Megan Moore, 406-444-4496

HB0219.001.004

1 pursuant to 15-30-3104;

2 (i) a payment received by a private landowner for providing public access to public land pursuant  
3 to Title 76, chapter 17, part 1;

4 (j) the amount of any refund or credit for overpayment of income taxes imposed by this state or  
5 any other taxing jurisdiction to the extent included in gross income for federal income tax purposes but not  
6 previously allowed as a deduction for Montana income tax purposes;

7 (k) the recovery during the tax year of any amount deducted in any prior tax year to the extent that  
8 the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted;

9 (l) an amount equal to 30% of net-long term capital gains, as defined in section 1222 of the  
10 Internal Revenue Code, 26 U.S.C. 1222, if and to the extent such gain is taken into account in computing  
11 federal taxable income; ~~and~~

12 (m) the amount of the gain recognized from the sale or exchange of a mobile home park as  
13 provided in 15-31-163; and

14 (n) (i) subject to subsection (8), up to 100% of all military pensions or military retirement income  
15 received by a retired member of:

16 (A) the United States armed forces, as defined in 10 U.S.C. 101;

17 (B) the Montana army national guard or the army national guard of other states;

18 (C) the Montana air national guard or the air national guard of other states; or

19 (D) a reserve component, as defined in 38 U.S.C. 101, of the United States armed forces; and

20 (ii) subject to subsection (8), up to 100% of all income received as survivor benefits for  
21 military service provided for in subsection (3)(n)(i).

22 (4) (a) A taxpayer who, in determining federal taxable income, has reduced the taxpayer's  
23 business deductions:

24 (i) by an amount for wages and salaries for which a federal tax credit was elected under sections  
25 38 and 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the  
26 wages and salaries paid regardless of the credit taken; or

27 (ii) for which a federal tax credit was elected under the Internal Revenue Code is allowed to  
28 deduct the amount of the business expense paid when there is no corresponding state income tax credit or

**Amendment - 1st Reading-white - Requested by: Jill Cohenour - (H) Taxation**

- 2023

68th Legislature 2023

Drafter: Megan Moore, 406-444-4496

HB0219.001.004

1 deduction, regardless of the credit taken.

2 (b) The deductions in subsection (4)(a) must be made in the year that the wages, salaries, or  
3 business expenses were used to compute the credit. In the case of a partnership or small business corporation,  
4 the deductions in subsection (4)(a) must be made to determine the amount of income or loss of the partnership  
5 or small business corporation.

6 (5) (a) An individual who contributes to one or more accounts established under the Montana  
7 family education savings program or to a qualified tuition program established and maintained by another state  
8 as provided in section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), may reduce  
9 taxable income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each  
10 spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts.  
11 Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each  
12 spouse. The reduction in taxable income under this subsection (5)(a) applies only with respect to contributions  
13 to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or  
14 stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (2)(d) do not  
15 apply with respect to withdrawals of contributions that reduced federal taxable income.

16 (b) Contributions made pursuant to this subsection (5) are subject to the recapture tax provided for  
17 in 15-62-208.

18 (6) (a) An individual who contributes to one or more accounts established under the Montana  
19 achieving a better life experience program or to a qualified program established and maintained by another  
20 state may reduce taxable income by the lesser of \$3,000 or the amount of the contribution. In the case of  
21 married taxpayers, each spouse is entitled to a reduction, not to exceed \$3,000, for the spouses' contributions  
22 to the accounts. Spouses may jointly elect to treat one-half of the total contributions made by the spouses as  
23 being made by each spouse. The reduction in taxable income under this subsection (6)(a) applies only with  
24 respect to contributions to an account for which the account owner is the taxpayer, the taxpayer's spouse, or  
25 the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of  
26 subsection (2)(d) do not apply with respect to withdrawals of contributions that reduced taxable income.

27 (b) Contributions made pursuant to this subsection (6) are subject to the recapture tax provided in  
28 53-25-118.

**Amendment - 1st Reading-white - Requested by: Jill Cohenour - (H) Taxation**

- 2023

68th Legislature 2023

Drafter: Megan Moore, 406-444-4496

HB0219.001.004

1 (7) By November 1 of each year, the department shall multiply the subtraction from federal taxable  
2 income for a taxpayer that has attained the age of 65 contained in subsection (3)(g) by the inflation factor for  
3 that tax year, rounding the result to the nearest \$10. The resulting amount is effective for that tax year and must  
4 be used as the basis for the subtraction from federal taxable income determined under subsection (3)(g).

5 (8) The exemption provided for in subsection (3)(n) for military pension income, military retirement  
6 income, and survivor benefits is based on taxable retirement income as follows:

7 (a) \$10,275 or less, 100% is exempt in tax year 2024 and thereafter;

8 (b) \$10,726 to \$26,025:

9 (i) 50% is exempt in tax year 2024; and

10 (ii) 100% is exempt in tax year 2025 and thereafter;

11 (c) \$26,026 to \$41,755:

12 (i) 40% is exempt in tax year 2024;

13 (ii) 70% is exempt in tax year 2025;

14 (iii) 80% is exempt in tax year 2026; and

15 (iv) 100% is exempt in tax year 2027 and thereafter;

16 (d) \$41,756 to \$65,425:

17 (i) 30% is exempt in tax year 2024;

18 (ii) 60% is exempt in tax year 2025;

19 (iii) 70% is exempt in tax year 2026; and

20 (iv) 80% is exempt in tax year 2027 and thereafter;

21 (e) \$65,426 to \$89,075:

22 (i) 20% is exempt in tax year 2024;

23 (ii) 30% is exempt in tax year 2025;

24 (iii) 40% is exempt in tax year 2026; and

25 (iv) 50% is exempt in tax year 2027 and thereafter;

26 (f) \$89,076 to ~~\$129,563~~ \$100,000:

27 (i) 10% is exempt in tax year 2024;

28 (ii) 20% is exempt in tax year 2025;

**Amendment - 1st Reading-white - Requested by: Jill Cohenour - (H) Taxation**

- 2023

68th Legislature 2023

Drafter: Megan Moore, 406-444-4496

HB0219.001.004

1            (iii) 30% is exempt in tax year 2026; and

2            (iv) 40% is exempt in tax year 2027 and thereafter;

3            (g) \$129,564 to \$170,050;

4            (i) 10% is exempt in tax year 2024; and

5            (ii) 20% is exempt in tax year 2025 and thereafter."

6

7            **NEW SECTION. Section 2. Effective dates.** (1) Except as provided in subsection (2), [this act] is  
8 effective on passage and approval.

9            (2) [Section 1] is effective January 1, 2024.

10

11            **NEW SECTION. Section 3. Applicability.** [This act] applies to income tax years beginning after  
12 December 31, 2023.

13

- END -