

1 SENATE BILL NO. 506
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6
7 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAX CREDIT FOR CONTRIBUTIONS TO A
8 QUALIFIED ENDOWMENT; REVISING THE MAXIMUM DONATION THAT QUALIFIES FOR THE CREDIT;
9 REPEALING THE TERMINATION DATE OF THE CREDIT; AMENDING SECTIONS 15-30-2328, 15-30-2329,
10 15-31-161, AND 15-31-162, MCA; REPEALING SECTION 9, CHAPTER 537, LAWS OF 1997, SECTION 5,
11 CHAPTER 226, LAWS OF 2001, SECTION 7, CHAPTER 4, LAWS OF 2005, SECTIONS 2, 3, 4, AND 7,
12 CHAPTER 208, LAWS OF 2007, SECTIONS 2, 3, 4, 5, 6, 7, 8, AND 11, CHAPTER 317, LAWS OF 2013, AND
13 SECTIONS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, AND 15, CHAPTER 254, LAWS OF 2019; AND
14 PROVIDING EFFECTIVE DATES."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17
18 **Section 1.** Section 15-30-2328, MCA, is amended to read:

19 **"15-30-2328. (Temporary) Credit for contributions to qualified endowment -- recapture of credit**
20 **-- deduction included as income.** (1) A taxpayer is allowed a tax credit against the taxes imposed by 15-30-
21 2103 or 15-31-101 in an amount equal to 40% of the present value of the aggregate amount of the charitable
22 gift portion of a planned gift made by the taxpayer during the year to any qualified endowment. The maximum
23 credit that may be claimed by a taxpayer for contributions made from all sources in a year is \$10,000. The
24 credit allowed under this section may not exceed the taxpayer's income tax liability.

25 (2) The credit allowed under this section may not be claimed by an individual taxpayer if the
26 taxpayer has included the full amount of the contribution upon which the amount of the credit was computed as
27 a deduction under 15-30-2131(1) or 15-30-2152(2).

28 (3) There is no carryback or carryforward of the credit permitted under this section, and the credit

1 must be applied to the tax year in which the contribution is made.

2 (4) If during any tax year a charitable gift is recovered by the taxpayer, the taxpayer shall:

3 (a) include as income the amount deducted in any prior year that is attributable to the charitable
4 gift to the extent that the deduction reduced the taxpayer's individual income tax or corporate income tax; and

5 (b) increase the amount of tax due under 15-30-2103 or 15-31-101 by the amount of the credit
6 allowed in the tax year in which the credit was taken.

7 **15-30-2328. ~~(Temporary -- effective January 1, 2024)~~ Credit for contributions to qualified**

8 **endowment -- recapture of credit -- deduction included as income.** (1) A taxpayer is allowed a tax credit
9 against the taxes imposed by 15-30-2103 or 15-31-101 in an amount equal to 40% of the present value of the
10 aggregate amount of the charitable gift portion of a planned gift made by the taxpayer during the year to any
11 qualified endowment. The maximum credit that may be claimed by a taxpayer for contributions made from all
12 sources in a year is ~~\$10,000~~ ~~\$20,000~~ \$15,000. The credit allowed under this section may not exceed the
13 taxpayer's income tax liability.

14 (2) There is no carryback or carryforward of the credit permitted under this section, and the credit
15 must be applied to the tax year in which the contribution is made.

16 (3) If during any tax year a charitable gift is recovered by the taxpayer, the taxpayer shall:

17 (a) include as income the amount deducted in any prior year that is attributable to the charitable
18 gift to the extent that the deduction reduced the taxpayer's individual income tax or corporate income tax; and

19 (b) increase the amount of tax due under 15-30-2103 or 15-31-101 by the amount of the credit
20 allowed in the tax year in which the credit was taken. (~~Terminates December 31, 2025--secs. 1 through 15, Ch.~~
21 ~~254, L. 2019.~~)"

22

23 **Section 2.** Section 15-30-2329, MCA, is amended to read:

24 **"15-30-2329. (Temporary) Beneficiaries of estates -- credit for contribution to qualified**

25 **endowment.** A contribution to a qualified endowment, as defined in 15-30-2327, by an estate qualifies for the
26 credit provided in 15-30-2328 if the contribution is a planned gift or in 15-31-161 if the contribution is an outright
27 gift to a qualified endowment. Any credit not used by the estate may be attributed to each beneficiary of the
28 estate in the same proportion used to report the beneficiary's income from the estate for Montana income tax

1 purposes. The maximum amount of credit that a beneficiary may claim is \$10,000, subject to the limitation in
2 15-30-2328(2), and the credit must be claimed in the year in which the contribution is made. The credit may not
3 be carried forward or carried back.

4 **15-30-2329. (Temporary—effective January 1, 2024) Beneficiaries of estates -- credit for**
5 **contribution to qualified endowment.** A contribution to a qualified endowment, as defined in 15-30-2327, by
6 an estate qualifies for the credit provided in 15-30-2328 if the contribution is a planned gift or in 15-31-161 if the
7 contribution is an outright gift to a qualified endowment. Any credit not used by the estate may be attributed to
8 each beneficiary of the estate in the same proportion used to report the beneficiary's income from the estate for
9 Montana income tax purposes. The maximum amount of credit that a beneficiary may claim is ~~\$10,000~~ **\$20,000**
10 **\$15,000**, and the credit must be claimed in the year in which the contribution is made. The credit may not be
11 carried forward or carried back. (~~Terminates December 31, 2025—secs. 1 through 15, Ch. 254, L. 2019.~~)"

12
13 **Section 3.** Section 15-31-161, MCA, is amended to read:

14 **"15-31-161. (Temporary) Credit for contribution by corporations to qualified endowment --**
15 **recapture of credit -- deduction included as income.** (1) A corporation is allowed a credit in an amount equal
16 to 20% of a charitable gift against the taxes otherwise due under 15-31-101 for charitable contributions made to
17 a qualified endowment, as defined in 15-30-2327. The maximum credit that may be claimed by a corporation for
18 contributions made from all sources in a year under this section is ~~\$10,000~~ **\$20,000** **\$15,000**. The credit allowed
19 under this section may not exceed the corporate taxpayer's income tax liability. The credit allowed under this
20 section may not be claimed by a corporation if the taxpayer has included the full amount of the contribution
21 upon which the amount of the credit was computed as a deduction under 15-31-114. There is no carryback or
22 carryforward of the credit permitted under this section, and the credit must be applied to the tax year in which
23 the contribution is made.

- 24 (2) If during any tax year a charitable gift is recovered by the corporation, the corporation shall:
25 (a) include as income the amount deducted in any prior year that is attributable to the charitable
26 gift to the extent that the deduction reduced the taxpayer's corporate income tax or alternative corporate income
27 tax; and
28 (b) increase the amount of tax due under 15-31-101 by the amount of the credit allowed in the tax

1 year in which the credit was taken. (~~Terminates December 31, 2025--secs. 1 through 15, Ch. 254, L. 2019.~~)"

2

3 **Section 4.** Section 15-31-162, MCA, is amended to read:

4 **"15-31-162. (Temporary) Small business corporation, partnership, and limited liability company**
5 **credit for contribution to qualified endowment -- recapture of credit -- deduction included as income. (1)**

6 A contribution to a qualified endowment, as defined in 15-30-2327, by a small business corporation, as defined
7 in 15-30-3301, a partnership, or a limited liability company, as defined in 35-8-102, carrying on any trade or
8 business for which deductions would be allowed under section 162 of the Internal Revenue Code, 26 U.S.C.
9 162, or carrying on any rental activity qualifies for the credit provided in 15-31-161. The credit must be
10 attributed to shareholders, partners, or members of a limited liability company in the same proportion used to
11 report the corporation's, partnership's, or limited liability company's income or loss for Montana income tax
12 purposes. The maximum credit that a shareholder of a small business corporation, a partner of a partnership, or
13 a member of a limited liability company may claim in a year is \$10,000, subject to the limitations in 15-30-
14 2328(2). The credit allowed under this section may not exceed the taxpayer's income tax liability. There is no
15 carryback or carryforward of the credit permitted under this section, and the credit must be applied to the tax
16 year in which the contribution is made.

17 (2) (a) If during any tax year a charitable gift is recovered by the small business corporation,
18 partnership, or limited liability company, the entity shall include as income the amount deducted in any prior
19 year that is attributable to the charitable gift.

20 (b) In the tax year that a charitable gift is recovered, each shareholder, partner, or member shall
21 increase the amount of tax due under 15-30-2103 or 15-31-101 by the amount of the credit allowed in the tax
22 year in which the credit was taken.

23 **15-31-162. (~~Temporary -- effective January 1, 2024~~) Small business corporation, partnership,**
24 **and limited liability company credit for contribution to qualified endowment -- recapture of credit --**
25 **deduction included as income. (1)** A contribution to a qualified endowment, as defined in 15-30-2327, by a
26 small business corporation, as defined in 15-30-3301, a partnership, or a limited liability company, as defined in
27 35-8-102, carrying on any trade or business for which deductions would be allowed under section 162 of the
28 Internal Revenue Code, 26 U.S.C. 162, or carrying on any rental activity qualifies for the credit provided in 15-

1 31-161. The credit must be attributed to shareholders, partners, or members of a limited liability company in the
2 same proportion used to report the corporation's, partnership's, or limited liability company's income or loss for
3 Montana income tax purposes. The maximum credit that a shareholder of a small business corporation, a
4 partner of a partnership, or a member of a limited liability company may claim in a year is ~~\$40,000~~ \$20,000
5 \$15,000. The credit allowed under this section may not exceed the taxpayer's income tax liability. There is no
6 carryback or carryforward of the credit permitted under this section, and the credit must be applied to the tax
7 year in which the contribution is made.

8 (2) (a) If during any tax year a charitable gift is recovered by the small business corporation,
9 partnership, or limited liability company, the entity shall include as income the amount deducted in any prior
10 year that is attributable to the charitable gift.

11 (b) In the tax year that a charitable gift is recovered, each shareholder, partner, or member shall
12 increase the amount of tax due under 15-30-2103 or 15-31-101 by the amount of the credit allowed in the tax
13 year in which the credit was taken. (~~Terminates December 31, 2025—secs. 1 through 15, Ch. 254, L. 2019.~~)"

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15 **NEW SECTION. Section 5. Repealer.** Section 9, Chapter 537, Laws of 1997, section 5, Chapter 226,
16 Laws of 2001, section 7, Chapter 4, Laws of 2005, sections 2, 3, 4, and 7, Chapter 208, Laws of 2007, sections
17 2, 3, 4, 5, 6, 7, 8, and 11, Chapter 317, Laws of 2013, and sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,
18 and 15, Chapter 254, Laws of 2019, are repealed.

19
20 **NEW SECTION. Section 6. Effective dates.** (1) Except as provided in subsection (2), [this act] is
21 effective on passage and approval.

22 (2) [Sections 1 through 4] are effective January 1, 2024.

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