

1 SENATE BILL NO. 550

2 INTRODUCED BY G. HERTZ

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING INCOME TAX LAWS; REVISING
5 REFERENCES TO THE INDIVIDUAL INCOME TAX RATE TABLE EFFECTIVE JANUARY 1, 2024;
6 EXTENDING THE MEDICAL SAVINGS ACCOUNT TAX DEDUCTION; CLARIFYING THE CALCULATION OF
7 COMPOSITE TAX RETURN TAX LIABILITY; ELIMINATING THE ESTABLISHMENT OF A FIRST-TIME HOME
8 BUYER SAVINGS ACCOUNT AFTER TAX YEAR 2023; PROVIDING THAT DIRECT PRIMARY CARE FEES
9 AND HEALTH CARE SHARING MINISTRY EXPENSES ARE ELIGIBLE MEDICAL EXPENSES FOR
10 MEDICAL SAVINGS ACCOUNTS; AMENDING SECTIONS 15-30-2113, 15-30-2120, 15-30-2318, 15-30-2522,
11 15-30-3312, 15-31-1003, 15-61-102, 15-61-202, 15-63-201, AND 50-4-107, MCA; AND PROVIDING
12 EFFECTIVE DATES, AN APPLICABILITY DATE, AND A RETROACTIVE APPLICABILITY DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15
16 **Section 1.** Section 15-30-2113, MCA, is amended to read:

17 **"15-30-2113. (Temporary) Determination of marital status.** For purposes of this chapter:

18 (1) the determination of whether an individual is married must be made as of the close of the
19 individual's tax year, except that if the individual's spouse dies during the individual's tax year, the determination
20 must be made as of the time of death; and

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

23 **15-30-2113. (Effective January 1, 2024) Determination of status -- effect of status elections.** For
24 purposes of this chapter:

25 (1) the determination of marital status, dependent status, status as an association, partnership, or
26 individual, and any other status must be made as provided in the Internal Revenue Code; and

27 (2) the status that a taxpayer claims or elects in a federal income tax return with respect to the
28 taxpayer or another individual or that the taxpayer or other individual is determined to have for federal income

1 tax purposes conclusively determines the status of that individual; and

2 ~~(3) a joint Montana individual income tax return must be filed for any tax year for which a joint federal~~
3 ~~income tax return is filed unless one of the individuals is a nonresident for any part of the tax year."~~

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5 **Section 2.** Section 15-30-2120, MCA, is amended to read:

6 **"15-30-2120. (Effective January 1, 2024) Adjustments to federal taxable income to determine**

7 **Montana taxable income.** (1) The items in subsection (2) are added to and the items in subsection (3) are
8 subtracted from federal taxable income to determine Montana taxable income.

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

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

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

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

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

19 (e) an item of income, deduction, or expense to the extent that it was used to calculate federal
20 taxable income if the item was also used to calculate a credit against a Montana income tax liability;

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

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

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

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

4 (j) for a an individual taxpayer that deducts state income taxes pursuant to section 164(a)(3) of
5 the Internal Revenue Code, 26 U.S.C. 164(a)(3), an additional amount equal to the state income tax deduction
6 claimed, not to exceed the amount required to reduce the federal itemized amount computed under section 161
7 of the Internal Revenue Code, 26 U.S.C. 161, to the amount of the federal standard deduction allowable under
8 section 63(c) of the Internal Revenue Code, 26 U.S.C. 63(c); and

9 (k) for a pass-through entity, estate, or trust, the amount of state income taxes deducted pursuant
10 to section 164(a)(3) of the Internal Revenue Code, 26 U.S.C 164(a)(3).

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

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

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

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

19 (ii) railroad retirement benefits;

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

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

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

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

Amendment - 1st Reading/2nd House-blue - Requested by: Greg Hertz - (H) Taxation

- 2023

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Drafter: Megan Moore, 406-444-4496

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

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

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

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

13 ~~(d) principal and income in a medical care savings account established in accordance with 15-61-~~
14 ~~201 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, including a medical~~
15 ~~care savings account inherited by an immediate family member as provided in 15-61-202(6);~~

16 ~~(d) annual contributions and income in a medical care savings account provided for in Title 15,~~
17 ~~chapter 61, and any withdrawal for payment of eligible medical expenses or for the long-term care of the~~
18 ~~employee or account holder or a dependent of the employee or account holder;~~

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

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

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

27 (h) the amount of a scholarship to an eligible student by a student scholarship organization
28 pursuant to 15-30-3104;

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

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

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

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

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

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

15 (i) by an amount for wages and salaries for which a federal tax credit was elected under sections
16 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
17 wages and salaries paid regardless of the credit taken; or

18 (ii) for which a federal tax credit was elected under the Internal Revenue Code is allowed to
19 deduct the amount of the business expense paid when there is no corresponding state income tax credit or
20 deduction, regardless of the credit taken.

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

25 (5) (a) An individual who contributes to one or more accounts established under the Montana
26 family education savings program or to a qualified tuition program established and maintained by another state
27 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
28 taxable income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each

1 spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts.
2 Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each
3 spouse. The reduction in taxable income under this subsection (5)(a) applies only with respect to contributions
4 to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or
5 stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (2)(d) do not
6 apply with respect to withdrawals of contributions that reduced federal taxable income.

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

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

18 (b) Contributions made pursuant to this subsection (6) are subject to the recapture tax provided in
19 53-25-118.

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

24

25 **Section 3.** Section 15-30-2318, MCA, is amended to read:

26 **"15-30-2318. Earned income tax credit.** (1) Except as provided in subsection (3), a resident
27 taxpayer is allowed as a credit against the tax imposed by 15-30-2103 a percentage of the credit allowed for the
28 federal earned income credit for which the individual taxpayer is eligible for the tax year under section 32 of the

1 Internal Revenue Code, 26 U.S.C. 32.

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

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

8 ~~(b)~~—The credit is not allowed on earned income that is treated as a dividend received by a member of
9 an agricultural organization provided for in section 501(d) of the Internal Revenue Code, 26 U.S.C. 501(d). For
10 the purpose of this subsection ~~(3)(b)~~, the amount of the state tax credit provided for in subsection (2) is reduced
11 by the reduction percentage.

12 (4) The taxpayer is entitled to a refund equal to the amount by which the credit exceeds the
13 taxpayer's tax liability or, if the taxpayer has no tax liability under this chapter, a refund equal to the amount of
14 the credit. The credit may be claimed by filing a Montana income tax return.

15 (5) For the purpose of this section, the following definitions apply:

16 (a) "Earned income" means earned income, as defined in section 32 of the Internal Revenue
17 Code, 26 U.S.C. 32, that was used to determine the amount of the federal earned income tax credit under
18 subsection (2).

19 (b) "Reduction percentage" means a percentage that is calculated by dividing the earned income
20 that is disallowed under subsection ~~(3)(b)~~ (3) by the total amount of earned income."

21

22 **Section 4.** Section 15-30-2522, MCA, is amended to read:

23 **"15-30-2522. Withholding of lottery winnings.** (1) When making any payment of winnings that are
24 subject to withholding, the state lottery and sports wagering commission, created under Title 23, chapter 7, part
25 2, shall deduct and withhold from the payment a tax in an amount equal to 6.9% of the payment the highest
26 marginal rate tax in effect under 15-30-2103.

27 (2) For the purposes of this section, the phrase "winnings that are subject to withholding" means
28 the proceeds in excess of \$5,000 won from a lottery game operated pursuant to Title 23, chapter 7.

1 (3) Every person who receives a payment of winnings that are subject to withholding shall furnish
2 the state lottery and sports wagering commission with a signed statement containing the name, address, and
3 taxpayer identification number of the recipient and of every person entitled to any portion of the payment. The
4 signed statement must be treated as a statement under oath or equivalent affirmation for the purposes of 45-7-
5 202, relating to the criminal offense of false swearing."
6

7 **Section 5.** Section 15-30-3312, MCA, is amended to read:

8 **"15-30-3312. (Temporary) Composite returns and tax.** (1) A partnership or S. corporation may elect
9 to file a composite return and pay a composite tax on behalf of participants. A participant is a partner,
10 shareholder, member, or other owner who:

11 (a) is a nonresident individual, a foreign C. corporation, or a pass-through entity whose only
12 Montana source income for the tax year is from the entity and other partnerships or S. corporations electing to
13 file the composite return and pay the composite tax on behalf of that partner, shareholder, member, or other
14 owner; and

15 (b) consents to be included in the filing.

16 (2) (a) Each participant's composite tax liability is the product obtained by:

17 (i) determining the tax that would be imposed, using the rates specified in 15-30-2103, on the sum
18 obtained by subtracting the allowable standard deduction for a single individual and one exemption allowance
19 from the participant's share of the entity's income from all sources as determined for federal income tax
20 purposes; and

21 (ii) multiplying that amount by the ratio of the entity's Montana source income to the entity's
22 income from all sources for federal income tax purposes.

23 (b) A participant's share of the entity's income is the aggregate of the participant's share of the
24 entity's income, gain, loss, or deduction or item of income, gain, loss, or deduction.

25 (3) The composite tax is the sum of each participant's composite tax liability.

26 (4) The electing entity:

27 (a) shall remit the composite tax to the department;

28 (b) must be responsible for any assessments of additional tax, penalties, and interest, which

1 additional assessments must be based on the total liability reflected in the composite return;

2 (c) shall represent the participants in any appeals, claims for refund, hearing, or court proceeding
3 in any matters relating to the filing of the composite return;

4 (d) shall make quarterly estimated tax payments and be subject to the underpayment interest as
5 prescribed by 15-30-2512(5)(a) computed on the composite tax liability included in the filing of a composite
6 return; and

7 (e) shall retain powers of attorney executed by each participant included in the composite return,
8 authorizing the entity to file the composite return and to act on behalf of each participant.

9 (5) The composite return must be made on forms the department prescribes and filed on or before
10 the due date, including extensions, for filing the entity information return. The composite return is in lieu of an
11 individual income tax return required under 15-30-2602 and 15-30-2604, a corporate income tax return required
12 under 15-31-111, and an alternative corporate income tax return required under 15-31-403.

13 (6) The composite tax is in lieu of the taxes imposed under:

14 (a) 15-30-2103 and 15-30-2104;

15 (b) 15-31-101 and 15-31-121; and

16 (c) 15-31-403.

17 (7) The department may adopt rules that are necessary to implement and administer this section.

18 **15-30-3312. (Effective January 1, 2024) Composite returns and tax.** (1) A partnership or S.

19 corporation may elect to file a composite return and pay a composite tax on behalf of participants. A participant
20 is a partner, shareholder, member, or other owner who:

21 (a) is a nonresident individual, a nonresident estate, a nonresident trust, a foreign C. corporation,
22 or a pass-through entity whose only Montana source income for the tax year is from the entity and other
23 partnerships or S. corporations electing to file the composite return and pay the composite tax on behalf of that
24 partner, shareholder, member, or other owner; and

25 (b) consents to be included in the filing.

26 (2) (a) Each participant's composite tax liability is the product obtained by:

27 (i) determining the tax that would be imposed, using the rate specified in 15-30-2103(1)(d), on the
28 sum obtained by subtracting the basic standard deduction of an individual who is not married and who is not a

1 surviving spouse or head of household, as determined under section 63(c)(2)(C) of the Internal Revenue Code,
2 26 U.S.C. 63(c)(2)(C), as adjusted under section 63(c)(4) of the Internal Revenue Code, from the participant's
3 share of the entity's income from all sources as determined for federal Montana income tax purposes; and

4 (ii) multiplying that amount by the ratio of the entity's Montana source income to the entity's
5 income from all sources for federal Montana income tax purposes.

6 (b) A participant's share of the entity's income is the aggregate of the participant's share of the
7 entity's income, gain, loss, or deduction or item of income, gain, loss, or deduction.

8 (3) The composite tax is the sum of each participant's composite tax liability.

9 (4) The electing entity:

10 (a) shall remit the composite tax to the department;

11 (b) must be responsible for any assessments of additional tax, penalties, and interest, which
12 additional assessments must be based on the total liability reflected in the composite return;

13 (c) shall represent the participants in any appeals, claims for refund, hearing, or court proceeding
14 in any matters relating to the filing of the composite return;

15 (d) shall make quarterly estimated tax payments and be subject to the underpayment interest as
16 prescribed by 15-30-2512(5)(a) computed on the composite tax liability included in the filing of a composite
17 return; and

18 (e) shall retain powers of attorney executed by each participant included in the composite return,
19 authorizing the entity to file the composite return and to act on behalf of each participant.

20 (5) The composite return must be made on forms the department prescribes and filed on or before
21 the due date, including extensions, for filing the entity information return. The composite return is in lieu of an
22 individual income tax return required under 15-30-2602 and 15-30-2604, a corporate income tax return required
23 under 15-31-111, and an alternative corporate income tax return required under 15-31-403.

24 (6) The composite tax is in lieu of the taxes imposed under:

25 (a) 15-30-2103 and 15-30-2104;

26 (b) 15-31-101 and 15-31-121; and

27 (c) 15-31-403.

28 (7) The department may adopt rules that are necessary to implement and administer this section."

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Section 6. Section 15-31-1003, MCA, is amended to read:

"15-31-1003. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Affiliate" means a subsidiary of which more than 50% of the voting stock is owned directly by the parent corporation or another member of the Montana combined group.

(2) "Base investment" means the amount expended by a production company as production expenditures and compensation incurred in this state that are directly used in a state-certified production.

(3) (a) "Compensation" means Montana wages, salaries, commissions, payments to a loan-out company subject to the provisions of subsection (3)(c), union benefits, fringe benefits, and any other form of remuneration paid to employees for personal services performed in this state.

(b) The term does not include compensation paid that is less than the minimum wage described in 39-3-409.

(c) The term includes payments to a loan-out company by a production company if the production company withheld and remitted Montana income tax at the ~~rate of 6.9%~~ highest marginal rate in effect under 15-30-2103 on all payments to the loan-out company for services performed in this state. The amount withheld is considered to have been withheld by the loan-out company on wages paid to its employees for services performed in this state. The amounts withheld must be allocated to the loan-out company's employees based on the payments made to the loan-out company's employees for services performed in Montana. For purposes of this chapter, loan-out company nonresident employees performing services in this state must be considered taxable nonresidents and the loan-out company is subject to income taxation in the tax year in which the loan-out company's employees perform services in this state, notwithstanding any other provisions of Title 15. The withholding liability is subject to penalties and interest as provided in 15-1-216.

(d) With respect to a single crew member or production staff member, excluding an actor, director, producer, or writer, the portion of any compensation that exceeds \$500,000 for a single production is not included when calculating the base investment.

(e) All payments to a single employee and any legal entity in which the employee has any direct or indirect ownership interest are considered as having been paid to the employee and must be aggregated

1 regardless of the means of payment or distribution.

2 (4) "Game platform" means the electronic delivery system used to launch or play an interactive
3 game.

4 (5) "Game sequel" means an interactive game that builds on the theme of a previously released
5 interactive game, is distinguished by a new title, and features objectives or characters that are recognizably
6 different from those in the original game.

7 (6) (a) "Loan-out company" means a personal service company contracted with and retained by a
8 production company to provide individual personnel who are not employees of the production company,
9 including actors, directors, producers, writers, production designers, production managers, costume designers,
10 directors of photography, editors, casting directors, first assistant directors, second unit directors, stunt
11 coordinators, and similar personnel, for performance of services used directly in a qualified production activity.

12 (b) The term does not include persons retained by a production company to provide tangible
13 property or outside independent contractor services, such as catering, construction, trailers, equipment, and
14 transportation.

15 (7) "Multimarket commercial distribution" means paid commercial distribution that extends to
16 markets outside the state.

17 (8) (a) "Postproduction company" means a company that:

18 (i) maintains a business location physically located in this state;

19 (ii) is engaged in qualified postproduction activities;

20 (iii) meets the requirements of 15-31-1005(4) in the tax year for which the postproduction company
21 claims the tax credit provided for in 15-31-1009; and

22 (iv) has been approved by the department of commerce to claim the credit provided for in 15-31-
23 1009.

24 (b) The term does not include any form of business owned, affiliated, or controlled, in whole or in
25 part, by a company or person that is in default on a tax obligation of the state, a loan made by the state, or a
26 loan guaranteed by the state.

27 (9) "Prereleased interactive game" means a new game, the offering of an existing game on a new
28 game platform, or a game sequel that is in the developmental stages of production and that may be available to

1 individuals for testing purposes but is not generally made available or distributed to consumers or to the general
2 public.

3 (10) (a) "Production company" means a company primarily engaged in qualified production activities
4 that have been approved by the department of commerce.

5 (b) The term does not include any form of business owned, affiliated, or controlled, in whole or in
6 part, by a company or person that is in default on a tax obligation of the state, a loan made by the state, or a
7 loan guaranteed by the state.

8 (11) (a) "Production expenditure" means a preproduction or production expenditure incurred in
9 Montana that is directly used for a qualified production activity including:

10 (i) set construction and operation;

11 (ii) wardrobes, makeup, accessories, and related services;

12 (iii) costs associated with photography and sound synchronization expenditures, excluding license
13 fees, incurred with Montana companies for sound recordings and musical compositions, lighting, or related
14 services and materials;

15 (iv) editing and related services;

16 (v) rental of facilities and equipment;

17 (vi) leasing of vehicles, whether to be photographed or to transport people, equipment, or
18 materials;

19 (vii) lodging costs, including hotel rooms and private housing rentals paid for by the production
20 company;

21 (viii) per diem and living allowance paid to staff, cast, and crew members;

22 (ix) digital, film, or tape editing, film processing, transfers of film to tape or digital format, sound
23 mixing, computer graphics services, special effects services, visual effects services, and animation services;

24 (x) airfare, if purchased through a Montana travel agency or travel company;

25 (xi) insurance costs and bonding, if purchased through a Montana insurance agency; and

26 (xii) other direct costs of producing the project in accordance with generally accepted entertainment
27 industry practices and generally accepted accounting principles.

28 (b) The term does not include:

1 (i) compensation, which qualifies for the credit provided for in 15-31-1007(3)(b)(i) through
2 (3)(b)(iv);

3 (ii) production expenditures for footage shot outside the state;

4 (iii) marketing;

5 (iv) story rights;

6 (v) distribution; or

7 (vi) postproduction expenditures.

8 (12) "Qualified Montana promotion" means a promotion of this state approved by the department of
9 commerce and consisting of:

10 (a) a qualified movie production that includes a 5-second static or animated logo that promotes
11 Montana in the end credits for the life of the project and that includes a link to the official state of Montana
12 website on the project's website;

13 (b) a qualified television production that includes an embedded 5-second Montana promotion
14 during each broadcast worldwide for the life of the project and that includes a link to the official state of
15 Montana website on the project's website;

16 (c) a qualified music video that includes the Montana logo at the end of each video and within
17 online promotions;

18 (d) a qualified interactive game that includes a 15-second Montana advertisement in units sold and
19 embedded in online promotions; or

20 (e) a qualified television special or sports event for which the network provides complimentary
21 placement of two 30-second spots per 30 minutes of qualifying television special or sports event programming
22 promoting Montana destinations and provided by the department of commerce as provided for in 15-31-
23 1004(7).

24 (13) "Qualified postproduction activity" means an activity performed in this state on a qualified
25 production employing traditional, emerging, and new workflow techniques used in postproduction for picture,
26 sound, and music editing, rerecording and mixing, visual effects, graphic design, original scoring, animation,
27 musical composition, and other activities performed after initial production and including activities performed on
28 previously produced and edited content.

1 (14) "Qualified postproduction wage" means wages incurred in this state directly in qualified
2 postproduction activities for footage shot inside or outside this state.

3 (15) (a) "Qualified production" means a new film, video, or digital project including only feature films,
4 series for theaters, television, or streaming, pilots, movies and scripted shows made for television or streaming,
5 televised commercial advertisements, music videos, corporate videos, industrial films, production for website
6 creation, television specials, sports events, video games, interactive entertainment, prereleased interactive
7 games, and sound recording projects used in a feature film, series, pilot, or movie for television.

8 (b) The term includes projects shot, recorded, or originally created in short or long form, animation,
9 and music, fixed on a delivery system, including film, videotape, computer disc, laser disc, and any element of
10 the digital domain, from which the program is viewed or reproduced and which is intended for multimarket
11 commercial distribution via a theater, video on demand, digital or fiber optic distribution platforms, digital video
12 recording, a digital platform designed for distribution of interactive games, licensing for exhibition by individual
13 television stations, groups of stations, networks, advertiser-supported sites, cable television stations, streaming
14 services, or public broadcasting stations.

15 (c) The term does not include the coverage of news, local interest programming, instructional
16 videos, commercials distributed only on the internet, infomercials, solicitation-based productions, nonscripted
17 television programs, feature films consisting primarily of stock footage not originally recorded in Montana, or
18 projects containing obscenity as defined in 45-8-201(2).

19 (16) (a) "Qualified production activity" means the production of a new film, video, or digital project in
20 this state and approved by the department of commerce, including only feature films, series for theaters,
21 television, or streaming, pilots, movies and scripted shows made for television or streaming, televised
22 commercial advertisements, music videos, corporate videos, industrial films, production for website creation,
23 television specials, sports events, video games, interactive entertainment, prereleased interactive games, and
24 sound recording projects used in a feature film, series, pilot, or movie for television.

25 (b) The term includes the production of projects filmed or recorded in this state, in whole or in part
26 and in short or long form, animation and music, fixed on a delivery system, including film, videotape, computer
27 disc, laser disc, and any element of the digital domain, from which the program is viewed or reproduced and
28 which is intended for multimarket commercial distribution via a theater, video on demand, digital or fiber optic

1 distribution platforms, digital video recording, a digital platform designed for distribution of interactive games,
2 licensing for exhibition by individual television stations, groups of stations, networks, advertiser-supported sites,
3 cable television stations, streaming services, or public broadcasting stations.

4 (c) The term does not include the coverage of news, local interest programming, instructional
5 videos, commercials distributed only on the internet, infomercials, solicitation-based productions, nonscripted
6 television programs, or feature films consisting primarily of stock footage not originally recorded in Montana,
7 projects containing obscenity as defined in 45-8-201(2), or projects not shot, recorded, or originally created in
8 Montana.

9 (17) "Resident" has the meaning provided in 15-30-2101.

10 (18) "State-certified production" means a production engaged in qualified production activities and
11 certified by the department of commerce as provided in 15-31-1004.

12 (19) "Underserved area" means a county in this state in which 14% or more people of all ages are in
13 poverty as determined by the U.S. bureau of the census estimates for the most current year available."
14

15 **Section 7.** Section 15-61-102, MCA, is amended to read:

16 **"15-61-102. Definitions.** As used in this chapter, unless it clearly appears otherwise, the following
17 definitions apply:

18 (1) "Account administrator" means:

19 (a) a state or federally chartered bank, savings and loan association, credit union, or trust
20 company;

21 (b) a health care insurer as defined in 33-22-125;

22 (c) a certified public accountant licensed to practice in this state pursuant to Title 37, chapter 50;

23 (d) an employer if the employer has a self-insured health plan under ERISA;

24 (e) the account holder or an employee for whose benefit the account in question is established;

25 (f) a broker, insurance producer, or investment adviser regulated by the commissioner of
26 insurance;

27 (g) an attorney licensed to practice law in this state;

28 (h) a person who is an enrolled agent allowed to practice before the United States internal revenue

Amendment - 1st Reading/2nd House-blue - Requested by: Greg Hertz - (H) Taxation

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Drafter: Megan Moore, 406-444-4496

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1 service.

2 (2) "Account holder" means an individual who is a resident of this state and who establishes a
3 medical care savings account or for whose benefit the account is established.

4 (3) "Consumer price index" means the consumer price index, United States city average, for all
5 items, for all urban consumers, as published by the bureau of labor statistics of the United States department of
6 labor.

7 (4) "Dependent" means the spouse of the employee or account holder or a child of the employee
8 or account holder if the child is:

9 (a) under 23 years of age and enrolled as a full-time student at an accredited college or university
10 or is under 19 years of age;

11 (b) legally entitled to the provision of proper or necessary subsistence, education, medical care, or
12 other care necessary for the health, guidance, or well-being of the child and is not otherwise emancipated, self-
13 supporting, married, or a member of the armed forces of the United States; or

14 (c) mentally or physically incapacitated to the extent that the child is not self-sufficient.

15 (5) "Eligible medical expense" means:

16 (a) an expense paid by the employee or account holder for medical care defined by 26 U.S.C.
17 213(d);

18 (b) an expense for long-term care, including long-term care insurance or a long-term care annuity;

19 and

20 (c) a family leave expense;

21 (d) any direct fee, as defined in 50-4-106, associated with a direct patient care agreement; and

22 (e) any expense paid by a member to a health care sharing ministry that meets the requirements
23 of 50-4-111.

24 (6) "Employee" means an employed individual for whose benefit or for the benefit of whose
25 dependents a medical care savings account is established. The term includes a self-employed individual.

26 (7) "ERISA" means the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et
27 seq.

28 (8) "Family leave expense" means:

1 (a) an expense, calculated monthly, approximating wages lost while caring for an immediate family
 2 member for the purposes allowed under the Family and Medical Leave Act of 1993, 29 U.S.C. 2601, et seq.,
 3 and 29 CFR, part 825. A family leave expense is calculated by multiplying the hourly wage that the caregiver
 4 would have been paid by the number of hours that would typically be spent working but were instead spent
 5 caring for an immediate family member. The hourly wage for a person paid a salary is the gross annual wage
 6 divided by 2,087.

7 (b) a premium paid for family leave insurance.

8 (9) "Immediate family member" means a parent, spouse, or child.

9 (10) "Medical care savings account" or "account" means an account established with an account
 10 administrator in this state pursuant to 15-61-201."

11

12 **Section 8.** Section 15-61-202, MCA, is amended to read:

13 **"15-61-202. (Temporary) Tax exemption -- conditions.** (1) Except as provided in this section, the
 14 amount of principal provided for in subsection (2) contributed annually by an employee or account holder to an
 15 account and all interest or other income on that principal may be excluded from the adjusted gross income of
 16 the employee or account holder and are exempt from taxation, in accordance with 15-30-2110(2)(j), as long as
 17 the principal and interest or other income is contained within the account, distributed to an immediate family
 18 member as provided in subsection (6), or withdrawn only for payment of eligible medical expenses or for paying
 19 the expenses of administering the account. Any part of the principal or income, or both, withdrawn from an
 20 account may not be excluded under subsection (2) and this subsection if the amount is withdrawn from the
 21 account and used for a purpose other than an eligible medical expense or for paying the expenses of
 22 administering the account.

23 (2) (a) An employee or account holder may annually contribute not more than:

24 (i) \$3,500 in tax year 2018;

25 (ii) \$4,000 in tax year 2019;

26 (iii) an amount determined for each subsequent tax year by multiplying the amount in subsection
 27 (2)(a)(ii) by an inflation factor determined by dividing the consumer price index for June of the previous tax year
 28 by the consumer price index for June 2018 and rounding the resulting figure to the nearest \$500 increment.

1 (b) There is no limitation on the amount of funds and interest or other income on those funds that
2 may be retained tax-free within an account.

3 (3) A deduction pursuant to 15-30-2131 is not allowed to an employee or account holder for an
4 amount contributed to an account. An employee or account holder may not deduct pursuant to 15-30-2131 or
5 exclude pursuant to 15-30-2110 an amount representing a loss in the value of an investment contained in an
6 account.

7 (4) The transfer of money in an account owned by one employee or account holder to the account
8 of another employee or account holder who is an immediate family member of the first employee or account
9 holder does not subject either employee or account holder to tax liability under this section. Amounts contained
10 within the account of the receiving employee or account holder are subject to the requirements and limitations
11 provided in this section.

12 (5) The employee or account holder who establishes the account is the owner of the account. An
13 employee or account holder may withdraw money in an account and deposit the money in another account with
14 a different or with the same account administrator without incurring tax liability.

15 (6) Within 30 days of being furnished proof of the death of the employee or account holder, the
16 account administrator shall distribute the principal and accumulated interest or other income in the account to
17 the estate of the employee or account holder or to a designated pay-on-death beneficiary as provided in 72-6-
18 223. An immediate family member who receives the distribution provided for in this subsection becomes the
19 account holder and may:

20 (a) within 1 year of the death of the employee or account holder from which the account was
21 inherited, withdraw funds for eligible medical expenses incurred by the deceased; and

22 (b) contribute to the account, retain money in the account tax-free, and withdraw funds from the
23 account as provided in this chapter.

24 **15-61-202. (Effective January 1, 2024) Tax exemption -- conditions.** (1) Except as provided in this
25 section, the amount of principal provided for in subsection (2) contributed annually by an employee or account
26 holder to an account and all interest or other income on the principal that was contributed to a medical care
27 savings account prior to January 1, 2024, may be excluded from the Montana taxable income of the employee
28 or account holder and is exempt from taxation, in accordance with 15-30-2120, as long as the principal and

1 interest or other income is contained within the account, distributed to an immediate family member as provided
2 in subsection (6) ~~(5)~~, or withdrawn only for payment of eligible medical expenses or for paying the expenses of
3 administering the account. Any part of the principal or income, or both, withdrawn from an account may not be
4 excluded under subsection (2) and this subsection if the amount is withdrawn from the account and used for a
5 purpose other than an eligible medical expense or for paying the expenses of administering the account.

6 ~~(2) For contributions that were made prior to January 1, 2024, there is no limitation on the amount of~~
7 ~~funds and interest or other income on those funds that may be retained tax-free within an account.~~

8 (2) (a) An employee or account holder may annually contribute not more than:

9 (i) \$4,500 in tax year 2024; and

10 (ii) an amount determined for each subsequent tax year by multiplying the amount in subsection
11 (2)(a)(i) by an inflation factor determined by dividing the consumer price index fund for June of the previous tax
12 year by the consumer price index for June 2023 and rounding the resulting figure to the nearest \$100
13 increment.

14 (b) There is no limitation on the amount of funds and interest or other income on those funds that
15 may be retained tax-free within an account.

16 (3) The transfer of money in an account owned by one employee or account holder to the account
17 of another employee or account holder who is an immediate family member of the first employee or account
18 holder does not subject either employee or account holder to tax liability under this section. Amounts contained
19 within the account of the receiving employee or account holder are subject to the requirements and limitations
20 provided in this section.

21 (4) The employee or account holder who establishes the account is the owner of the account. An
22 employee or account holder may withdraw money in an account and deposit the money in another account with
23 a different or with the same account administrator without incurring tax liability.

24 (5) Within 30 days of being furnished proof of the death of the employee or account holder, the
25 account administrator shall distribute the principal and accumulated interest or other income in the account to
26 the estate of the employee or account holder or to a designated pay-on-death beneficiary as provided in 72-6-
27 223. An immediate family member who receives the distribution provided for in this subsection becomes the
28 account holder and may:

1 (a) within 1 year of the death of the employee or account holder from which the account was
2 inherited, withdraw funds for eligible medical expenses incurred by the deceased; and

3 (b) contribute to the account, retain money in the account tax-free, and withdraw funds from the
4 account as provided in this chapter."
5

6 **Section 9.** Section 15-63-201, MCA, is amended to read:

7 **"15-63-201. Establishment of account.** A Prior to January 1, 2024, a first-time home buyer who is a
8 resident of this state may establish a first-time home buyer savings account for the first-time home buyer, either
9 individually or jointly."
10

11 **Section 10.** Section 50-4-107, MCA, is amended to read:

12 **"50-4-107. Direct patient care agreements -- requirements -- prohibition.** (1) A patient or the
13 patient's legal representative may enter into a direct patient care agreement with a health care provider to
14 arrange for health care services for the patient.

15 (2) A direct patient care agreement must be in writing, and the patient or the patient's legal
16 representative must be given a copy of the written agreement at the time the agreement is signed.

17 (3) The agreement must:

18 (a) describe the health care services to be provided in exchange for payment of a direct fee;

19 (b) specify the direct fee required and any additional fees to be paid by a third party;

20 (c) specify the patient's payment obligation;

21 (d) prohibit the provider from charging or receiving additional compensation for health care
22 services included in the direct fee;

23 (e) prohibit the provider from submitting to a health insurance issuer or a contractor or
24 subcontractor of a health insurance issuer a claim for payment for health care services provided to a patient
25 under a direct patient care agreement;

26 (f) meet the disclosure requirements of 50-4-108; and

27 (g) unequivocally provide that the charges for medical services not included in the agreement are
28 the sole responsibility of the patient.

1 (4) A direct patient care agreement may allow for the direct fee and any additional fees to be paid
2 by a third party.

3 (5) (a) Either party to a direct patient care agreement may terminate the agreement in writing
4 without penalty or payment of a termination fee:

5 (i) at any time; or

6 (ii) after notice as specified in the agreement. The notice requirement may not exceed 60 days.

7 (b) The agreement must specify the terms of cancellation, including terms that cover relocation or
8 military duty by the patient.

9 (6) The direct fees paid pursuant to this section are an eligible medical expense for the purposes
10 of 15-61-202."

11
12 **NEW SECTION. Section 11. Effective dates.** (1) Except as provided in subsection (2), [this act] is
13 effective January 1, 2024.

14 (2) [Sections 7, 10, and 12] and this section are effective on passage and approval.

15
16 **NEW SECTION. Section 12. Retroactive applicability -- applicability.** (1) Except as provided in
17 subsection (2), [this act] applies to tax years beginning after December 31, 2023.

18 (2) [Sections 7 and 10] apply retroactively, within the meaning of 1-2-109, to tax years beginning
19 after December 31, 2022.

20 - END -