

SENATE BILL NO. 427

INTRODUCED BY T. VERMEIRE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE STATUTE OF LIMITATIONS ON ASSESSMENT OF INCOME TAX; PROVIDING THAT A DEFICIENCY IN INCOME TAX MUST BE ASSESSED WITHIN 3 YEARS OF FILING A RETURN; PROVIDING A DEFINITION; AMENDING SECTION 15-30-2605, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

**Section 1.** Section 15-30-2605, MCA, is amended to read:

**"15-30-2605. (Temporary) Revision of return by department -- statute of limitations -- examination of records and persons.** (1) If, in the opinion of the department, any return of a taxpayer is in any essential respect incorrect, it may revise the return.

(2) If a taxpayer does not file a return as required under this chapter, including a federal adjustments report required under 15-30-3403 or 15-30-3404, the department may, at any time, audit the taxpayer or estimate the taxable income of the taxpayer from any information in its possession and, based upon the audit or estimate, assess the taxpayer for the taxes, penalties, and interest due the state.

(3) Except as provided in subsections (2) and (4), the amount of tax due under any return may be determined by the department within 3 years after the return was filed, regardless of whether the return was filed on or after the last day prescribed for filing. For the purposes of 15-30-2607 and this section, a tax return due under this chapter and filed before the last day prescribed by law or rule is considered to be filed on the last day prescribed for filing.

(4) If a taxpayer, with intent to evade the tax, purposely or knowingly files a false or fraudulent return, including a federal adjustments report required under 15-30-3403 or 15-30-3404, that violates a provision of this chapter, the amount of tax due may be determined at any time after the return is filed and the tax may be collected at any time after it becomes due.

(5) The department, for the purpose of ascertaining the correctness of any return or for the

1 purpose of making an estimate of taxable income of any person where information has been obtained, may  
2 also examine or cause to have examined by any agent or representative designated by it for that purpose any  
3 books, papers, or records of memoranda bearing upon the matters required to be included in the return and  
4 may require the attendance of the person rendering the return or any officer or employee of the person or the  
5 attendance of any person having knowledge in the premises and may take testimony and require proof material  
6 for its information, with power to administer oaths to the person or persons.

7 **15-30-2605. (Effective January 1, 2024) Revision of return by department -- statute of**

8 **limitations -- examination of records and persons.** (1) If, in the opinion of the department, any return of a  
9 taxpayer is in any essential respect incorrect, it may revise the return.

10 (2) If a taxpayer does not file a return as required under this chapter, including a federal  
11 adjustments report required under 15-30-3403 or 15-30-3404, the department may, at any time, audit the  
12 taxpayer or estimate the Montana taxable income of the taxpayer from any information in its possession and,  
13 based upon the audit or estimate, assess the taxpayer for the taxes, penalties, and interest due the state.

14 (3) (a) Except as provided in subsections (2) and (4), the amount of tax due under any return ~~may~~  
15 must be determined by the department within 3 years after the return was filed, regardless of whether the return  
16 was filed on or after the last day prescribed for filing. For the purposes of 15-30-2607 and this section, a tax  
17 return due under this chapter and filed before the last day prescribed by law or rule is considered to be filed on  
18 the last day prescribed for filing.

19 (b) For the purposes of subsection (3)(a), "determined" means that the amount of any tax imposed  
20 by this chapter must be assessed through issuance of a final decision that may be appealed to the Montana tax  
21 appeal board pursuant to 15-2-302. No proceeding in the Montana tax appeal board may commence without  
22 assessment unless a taxpayer fails to file a return.

23 (4) If a taxpayer, with intent to evade the tax, purposely or knowingly files a false or fraudulent  
24 return, including a federal adjustments report required under 15-30-3403 or 15-30-3404, that violates a  
25 provision of this chapter, the amount of tax due may be determined at any time after the return is filed and the  
26 tax may be collected at any time after it becomes due.

27 (5) The department, for the purpose of ascertaining the correctness of any return or for the  
28 purpose of making an estimate of Montana taxable income of any person where information has been obtained,

1 may also examine or cause to have examined by any agent or representative designated by it for that purpose  
2 any books, papers, or records of memoranda bearing upon the matters required to be included in the return and  
3 may require the attendance of the person rendering the return or any officer or employee of the person or the  
4 attendance of any person having knowledge in the premises and may take testimony and require proof material  
5 for its information, with power to administer oaths to the person or persons."

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7 NEW SECTION. **Section 2. Effective date.** [This act] is effective January 1, 2024.

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9 NEW SECTION. **Section 3. Applicability.** [This act] applies to income tax years beginning after

10 December 31, 2023.

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