

SENATE BILL NO. 506

INTRODUCED BY G. HERTZ, D. BEDEY, T. WELCH, C. KEOGH, C. KNUDSEN, S. VINTON, K. SULLIVAN, M. BERTOGLIO, L. BREWSTER, E. BUTTREY, L. JONES, D. LOGE, T. BROCKMAN, S. O'BRIEN, C. POPE, J. ELLIS, S. FITZPATRICK, P. FLOWERS, M. DUNWELL, W. MCKAMEY, D. BARTEL, J. ELLSWORTH, K. BOGNER, D. ZOLNIKOV, K. ABBOTT, D. HARVEY, E. BOLDMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAX CREDIT FOR CONTRIBUTIONS TO A QUALIFIED ENDOWMENT; REVISING THE MAXIMUM DONATION THAT QUALIFIES FOR THE CREDIT; REPEALING THE TERMINATION DATE OF THE CREDIT; AMENDING SECTIONS 15-30-2328, 15-30-2329, 15-31-161, AND 15-31-162, MCA; REPEALING SECTION 9, CHAPTER 537, LAWS OF 1997, SECTION 5, CHAPTER 226, LAWS OF 2001, SECTION 7, CHAPTER 4, LAWS OF 2005, SECTIONS 2, 3, 4, AND 7, CHAPTER 208, LAWS OF 2007, SECTIONS 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, AND 15, CHAPTER 254, LAWS OF 2019; AND PROVIDING EFFECTIVE DATES."

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

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

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

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

(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 ~~\$40,000~~ \$20,000. The credit allowed under this section may not exceed the taxpayer's  
13 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~~  
10 \$20,000, 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. The credit allowed under  
19 this section may not exceed the corporate taxpayer's income tax liability. The credit allowed under this section  
20 may not be claimed by a corporation if the taxpayer has included the full amount of the contribution upon which  
21 the amount of the credit was computed as a deduction under 15-31-114. There is no carryback or carryforward  
22 of the credit permitted under this section, and the credit must be applied to the tax year in which the contribution  
23 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.~~)"

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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. The  
 5 credit allowed under this section may not exceed the taxpayer's income tax liability. There is no carryback or  
 6 carryforward of the credit permitted under this section, and the credit must be applied to the tax year in which  
 7 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.

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 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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