SENATE BILL NO. 7

INTRODUCED BY G. HERTZ

A BILL FOR AN ACT ENTITLED: “AN ACT REVISING INCOME TAX DEDUCTIONS FOR CERTAIN TRADE OR BUSINESS EXPENSES; ALLOWING A QUALIFIED BUSINESS INCOME TAX DEDUCTION; PROVIDING THE DEDUCTION IS BASED ON THE AMOUNT CLAIMED UNDER SECTION 199A OF THE INTERNAL REVENUE CODE; AMENDING SECTION 15-30-2120, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE 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. 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 taxable income if the item was also used to calculate a credit against a Montana income tax liability;

(f) a deduction for an income distribution from an estate or trust to a beneficiary that was included

in the federal taxable income of an estate or trust in accordance with sections 651 and 661 of the Internal Revenue Code, 26 U.S.C. 651 and 661;

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

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

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

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

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

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

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

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

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

(ii) railroad retirement benefits;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(m) payments from the Montana end of watch trust as provided in 2-15-2041;

(n) (i) subject to subsection (9), a portion of military pensions or military retirement income as calculated pursuant to subsection (8) that is received by a retired member of:

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

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

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

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

(ii) subject to subsection (9), up to 50% of all income received as survivor benefits for military service provided for in subsections (3)(n)(i)(A) through (3)(n)(i)(D);

(o) subject to subsection (10), for each taxpayer that is a qualified volunteer firefighter or volunteer emergency care provider, an additional subtraction of $3,000;

(p) income received from the manufacture of ammunition components by an entity, owner, or partner engaged in the primary business of the manufacture of ammunition components as provided in 30-20-207; and

(q) income attributable to providing a bona fide loan in an arms'-length transaction to a manufacturer of ammunition components as provided in 30-20-208.

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

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

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

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

(5) (a) An individual, a head of household, or a married individual who files a separate return on a separate form pursuant to 15-30-2113 who contributes to one or more accounts established under the Montana family education savings program or to a qualified tuition program established and maintained by another state 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 taxable income by the lesser of $4,500 or the amount of the contribution. Married taxpayers who file a joint return are entitled to a reduction, not in excess of $9,000, for their contributions to the accounts. The reduction in taxable income under this subsection (5)(a) applies only to contributions to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (2)(d) do not apply to withdrawals of contributions that reduced federal taxable income.

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

(6) (a) An individual, a head of household, or a married individual who files a separate return on a separate form pursuant to 15-30-2113 who contributes to one or more accounts established under the Montana achieving a better life experience program or to a qualified program established and maintained by another state may reduce taxable income by the lesser of $3,000 or the amount of the contribution. Married taxpayers filing a joint return are entitled to a reduction, not to exceed $6,000, for their contributions to the accounts. The reduction in taxable income under this subsection (6)(a) applies only to contributions to an account for which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (2)(d) do not apply to withdrawals of contributions that reduced taxable income.

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

(7) (a) By November 1 of each year, the department shall multiply the subtractions from federal taxable income in subsections (3)(g) and (3)(o) by the inflation factor for that tax year for a taxpayer that either:

(i) has attained the age of 65; or

(ii) is a qualified volunteer firefighter or volunteer emergency care provider.

(b) The department shall round the results in subsection (7)(a) to the nearest $10. The resulting amounts are effective for that tax year and must be used as the basis for the subtraction from federal taxable income determined under subsections (3)(g) and (3)(o).

(8) (a) Subject to subsection (9), the subtraction in subsection (3)(n)(i) is equal to the lesser of:

(i) the amount of Montana source wage income on the return; or

(ii) 50% of the taxpayer's military pension or military retirement income.

(b) For the purposes of subsection (8)(a)(i), "Montana source wage income" means:

(i) wages, salary, tips, and other compensation for services performed in the state;

(ii) net income from a trade, business, profession, or occupation carried on in the state; and

(iii) net income from farming activities carried on in the state.

(9) The subtractions in subsection (3)(n):

(a) may only be claimed by a person who:

(i) became a resident of the state on or after June 30, 2023; or

(ii) was a resident of the state before receiving military pension or military retirement income and remained a resident after receiving military pension or military retirement income;

(b) may only be claimed for 5 consecutive years after satisfying the provisions of subsection (9)(a); and

(c) are not available if a taxpayer claimed the exemption before becoming a nonresident.

(10) To be entitled to the subtraction in subsection (3)(o), a taxpayer, during the year for which the deduction is claimed, must have:

(a) been a volunteer firefighter as defined in 19-17-102 or a volunteer emergency care provider as defined in 50-6-202;

(b) been an active, nonpaid member during the entire calendar year of the same volunteer fire company organized under the provisions of Title 7, chapter 33, part 21, 22, 23, or 24, or the same emergency medical service as defined in 50-6-302; and

(c) completed a minimum of 30 hours of training as specified in 19-17-108(3) for volunteer firefighters or completed the number of training hours prescribed by the state board of medical examiners for emergency care providers.

(11) For the subtraction under subsection (5) from federal taxable income for a taxpayer who contributes to one or more accounts established under the Montana family education savings program or to a qualified tuition program, the total amount of the contributions for each tax year after 2025 is determined by multiplying the amount in subsection (5)(a) by an inflation factor determined by dividing the consumer price index fund for June of the previous tax year by the consumer price index for June 2024 and rounding the resulting figure to the nearest $100 increment. (Subsections (3)(p) and (3)(q) terminate December 31, 2035--sec. 11, Ch. 675, L. 2025.)"

NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 3. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2026.

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