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SENATE BILL NO. 506

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

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; MAKING THE CREDIT AVAILABLE THROUGH TAX YEAR 2031; 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 Through the tax year ending December 31, 2031, 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).

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

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

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

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

8 **15-30-2328. (Temporary -- effective January 1, 2024) Credit for contributions to qualified**
9 **endowment -- recapture of credit -- deduction included as income.** (1) A Through the tax year ending
10 December 31, 2031, a taxpayer is allowed a tax credit against the taxes imposed by 15-30-2103 or 15-31-101
11 in an amount equal to 40% of the present value of the aggregate amount of the charitable gift portion of a
12 planned gift made by the taxpayer during the year to any qualified endowment. The maximum credit that may
13 be claimed by a taxpayer for contributions made from all sources in a year is ~~\$10,000~~ \$20,000. The credit
14 allowed under this section may not exceed the taxpayer's income tax liability.

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

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

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

20 (b) increase the amount of tax due under 15-30-2103 or 15-31-101 by the amount of the credit
21 allowed in the tax year in which the credit was taken. (~~Terminates December 31, 2025--secs. 1 through 15, Ch.~~
22 ~~254, L. 2019.~~)"

23

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

25 **"15-30-2329. (Temporary) Beneficiaries of estates -- credit for contribution to qualified**
26 **endowment.** A Through the tax year ending December 31, 2031, a contribution to a qualified endowment, as
27 defined in 15-30-2327, by an estate qualifies for the credit provided in 15-30-2328 if the contribution is a
28 planned gift or in 15-31-161 if the contribution is an outright gift to a qualified endowment. Any credit not used

1 by the estate may be attributed to each beneficiary of the estate in the same proportion used to report the
2 beneficiary's income from the estate for Montana income tax purposes. The maximum amount of credit that a
3 beneficiary may claim is \$10,000, subject to the limitation in 15-30-2328(2), and the credit must be claimed in
4 the year in which the contribution is made. The credit may not be carried forward or carried back.

5 **15-30-2329. ~~(Temporary—effective January 1, 2024)~~ Beneficiaries of estates -- credit for**
6 **contribution to qualified endowment.** A Through the tax year ending December 31, 2031, a contribution to a
7 qualified endowment, as defined in 15-30-2327, by an estate qualifies for the credit provided in 15-30-2328 if
8 the contribution is a planned gift or in 15-31-161 if the contribution is an outright gift to a qualified endowment.
9 Any credit not used by the estate may be attributed to each beneficiary of the estate in the same proportion
10 used to report the beneficiary's income from the estate for Montana income tax purposes. The maximum
11 amount of credit that a beneficiary may claim is ~~\$10,000~~ \$20,000, and the credit must be claimed in the year in
12 which the contribution is made. The credit may not be carried forward or carried back. ~~(Terminates December~~
13 ~~31, 2025—secs. 1 through 15, Ch. 254, L. 2019.)"~~

14
15 **Section 3.** Section 15-31-161, MCA, is amended to read:

16 **"15-31-161. ~~(Temporary)~~ Credit for contribution by corporations to qualified endowment --**
17 **recapture of credit -- deduction included as income.** (1) A Through the tax year ending December 31, 2031,
18 a corporation is allowed a credit in an amount equal to 20% of a charitable gift against the taxes otherwise due
19 under 15-31-101 for charitable contributions made to a qualified endowment, as defined in 15-30-2327. The
20 maximum credit that may be claimed by a corporation for contributions made from all sources in a year under
21 this section is ~~\$10,000~~ \$20,000. The credit allowed under this section may not exceed the corporate taxpayer's
22 income tax liability. The credit allowed under this section may not be claimed by a corporation if the taxpayer
23 has included the full amount of the contribution upon which the amount of the credit was computed as a
24 deduction under 15-31-114. There is no carryback or carryforward of the credit permitted under this section,
25 and the credit must be applied to the tax year in which the contribution is made.

26 (2) If during any tax year a charitable gift is recovered by the corporation, the corporation shall:
27 (a) include as income the amount deducted in any prior year that is attributable to the charitable
28 gift to the extent that the deduction reduced the taxpayer's corporate income tax or alternative corporate income

1 tax; and

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

4

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

6 **"15-31-162. (Temporary) Small business corporation, partnership, and limited liability company**
7 **credit for contribution to qualified endowment -- recapture of credit -- deduction included as income. (1)**

8 A Through the tax year ending December 31, 2031, a contribution to a qualified endowment, as defined in 15-
9 30-2327, by a small business corporation, as defined in 15-30-3301, a partnership, or a limited liability
10 company, as defined in 35-8-102, carrying on any trade or business for which deductions would be allowed
11 under section 162 of the Internal Revenue Code, 26 U.S.C. 162, or carrying on any rental activity qualifies for
12 the credit provided in 15-31-161. The credit must be attributed to shareholders, partners, or members of a
13 limited liability company in the same proportion used to report the corporation's, partnership's, or limited liability
14 company's income or loss for Montana income tax purposes. The maximum credit that a shareholder of a small
15 business corporation, a partner of a partnership, or a member of a limited liability company may claim in a year
16 is \$10,000, subject to the limitations in 15-30-2328(2). The credit allowed under this section may not exceed the
17 taxpayer's income tax liability. There is no carryback or carryforward of the credit permitted under this section,
18 and the credit must be applied to the tax year in which the contribution is made.

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

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

25 **15-31-162. (~~Temporary--effective January 1, 2024~~) Small business corporation, partnership,**
26 **and limited liability company credit for contribution to qualified endowment -- recapture of credit --**
27 **deduction included as income. (1) A Through the tax year ending December 31, 2031, a** contribution to a
28 qualified endowment, as defined in 15-30-2327, by a small business corporation, as defined in 15-30-3301, a

1 partnership, or a limited liability company, as defined in 35-8-102, carrying on any trade or business for which
 2 deductions would be allowed under section 162 of the Internal Revenue Code, 26 U.S.C. 162, or carrying on
 3 any rental activity qualifies for the credit provided in 15-31-161. The credit must be attributed to shareholders,
 4 partners, or members of a limited liability company in the same proportion used to report the corporation's,
 5 partnership's, or limited liability company's income or loss for Montana income tax purposes. The maximum
 6 credit that a shareholder of a small business corporation, a partner of a partnership, or a member of a limited
 7 liability company may claim in a year is ~~\$10,000~~ \$20,000. The credit allowed under this section may not exceed
 8 the taxpayer's income tax liability. There is no carryback or carryforward of the credit permitted under this
 9 section, and the credit must be applied to the tax year in which the contribution is made.

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

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

17 NEW SECTION. Section 5. Repealer. Section 9, Chapter 537, Laws of 1997, section 5, Chapter 226,
 18 Laws of 2001, section 7, Chapter 4, Laws of 2005, sections 2, 3, 4, and 7, Chapter 208, Laws of 2007, sections
 19 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,
 20 and 15, Chapter 254, Laws of 2019, are repealed.

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

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

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