

1 SENATE BILL NO. 547

2 INTRODUCED BY S. O'BRIEN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ~~THE CAPITAL GAINS ADJUSTMENT TO TAXABLE~~  
5 ~~INCOME SCHOOL FUNDING LAWS~~ FOR THE PURPOSE OF FUNDING INCREASES IN TEACHER  
6 SALARIES; ~~ELIMINATING THE CAPITAL GAINS TAX ADJUSTMENT FOR THE PURPOSE OF~~  
7 ~~CALCULATING MONTANA TAXABLE INCOME WHEN FEDERAL ADJUSTED GROSS INCOME EXCEEDS A~~  
8 ~~CERTAIN AMOUNT~~; PROVIDING FOR AN EXTRA QUALITY EDUCATOR PAYMENT; ESTABLISHING  
9 REPORTING REQUIREMENTS TO THE EDUCATION INTERIM COMMITTEE; AMENDING SECTIONS ~~15-~~  
10 ~~30-2120~~, 20-9-306, AND 20-9-324, MCA; AND PROVIDING A DELAYED EFFECTIVE ~~DATES AND AN~~  
11 ~~APPLICABILITY~~ DATE."

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14  
15 **Section 1.** Section ~~15-30-2120~~, MCA, is amended to read:

16 **~~"15-30-2120. (Effective January 1, 2024) Adjustments to federal taxable income to determine~~**  
17 **~~Montana taxable income. (1) The items in subsection (2) are added to and the items in subsection (3) are~~**  
18 **~~subtracted from federal taxable income to determine Montana taxable income.~~**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 ~~(i) — interest from obligations of the United States government and exempt interest dividends~~  
26 ~~attributable to that interest; and~~

27 ~~(ii) — railroad retirement benefits;~~

28 ~~(c) — (i) salary received from the armed forces by residents of Montana who are serving on active~~

- 1 ~~duty in the regular armed forces and who entered into active duty from Montana;~~
- 2 ~~(ii) — the salary received by residents of Montana for active duty in the national guard. For the~~
- 3 ~~purposes of this subsection (3)(c)(ii), "active duty" means duty performed under an order issued to a national~~
- 4 ~~guard member pursuant to:~~
- 5 ~~(A) — Title 10, U.S.C.; or~~
- 6 ~~(B) — Title 32, U.S.C., for a homeland defense activity, as defined in 32 U.S.C. 901, or a contingency~~
- 7 ~~operation, as defined in 10 U.S.C. 101, and the person was a member of a unit engaged in a homeland~~
- 8 ~~defense activity or contingency operation.~~
- 9 ~~(iii) — the amount received pursuant to 10-1-1114 or from the federal government by a service~~
- 10 ~~member, as defined in 10-1-1112, as reimbursement for group life insurance premiums paid;~~
- 11 ~~(iv) — the amount received by a beneficiary pursuant to 10-1-1201; and~~
- 12 ~~(v) — all payments made under the World War I bonus law, the Korean bonus law, and the veterans'~~
- 13 ~~bonus law. Any income tax that has been or may be paid on income received from the World War I bonus law,~~
- 14 ~~Korean bonus law, and the veterans' bonus law is considered an overpayment and must be refunded upon the~~
- 15 ~~filing of an amended return and a verified claim for refund on forms prescribed by the department in the same~~
- 16 ~~manner as other income tax refund claims are paid.~~
- 17 ~~(d) — interest and other income related to contributions that were made prior to January 1, 2024, that~~
- 18 ~~are retained in a medical care savings account provided for in Title 15, chapter 61, and any withdrawal for~~
- 19 ~~payment of eligible medical expenses or for the long-term care of the employee or account holder or a~~
- 20 ~~dependent of the employee or account holder;~~
- 21 ~~(e) — contributions or earnings withdrawn from a family education savings account provided for in~~
- 22 ~~Title 15, chapter 62, or from a qualified tuition program established and maintained by another state as~~
- 23 ~~provided in section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), for qualified~~
- 24 ~~education expenses, as defined in 15-62-103, of a designated beneficiary;~~
- 25 ~~(f) — interest and other income related to contributions that were made prior to January 1, 2024, that~~
- 26 ~~are retained in a first-time home buyer savings account provided for in Title 15, chapter 63, and any withdrawal~~
- 27 ~~for payment of eligible costs for the first-time purchase of a single-family residence;~~
- 28 ~~(g) — for each taxpayer that has attained the age of 65, an additional subtraction of \$5,500;~~

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

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

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

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

10 ~~(l) — for each taxpayer with federal adjusted gross income of less than \$1 million, an amount equal~~  
11 ~~to 30% of net long term capital gains, as defined in section 1222 of the Internal Revenue Code, 26 U.S.C.~~  
12 ~~1222, if and to the extent such gain is taken into account in computing federal taxable income; and~~

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

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

17 ~~(i) — by an amount for wages and salaries for which a federal tax credit was elected under sections~~  
18 ~~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~~  
19 ~~wages and salaries paid regardless of the credit taken; or~~

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

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

27 ~~(5) — (a) An individual who contributes to one or more accounts established under the Montana~~  
28 ~~family education savings program or to a qualified tuition program established and maintained by another state~~

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

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

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

20 ~~(b) Contributions made pursuant to this subsection (6) are subject to the recapture tax provided in~~  
21 ~~53-25-118.~~

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

26 ~~(8) In accordance with 5-11-210, the department shall report annually to the education interim~~  
27 ~~committee provided for in 5-5-224 regarding the amount of increased revenue resulting from the reduction by~~  
28 ~~[this act] of the capital gains tax adjustment provided for in subsection (3)(l)."~~

1 teachers, not including bonuses, stipends, or extended duty contracts, divided by the total full-time equivalent  
2 teachers employed in the district, with full-time equivalence rounded to the nearest tenth.

3 (c) "Teacher base pay" means the lowest salary for a beginning teacher incorporated in the  
4 district's collective bargaining agreement if the teachers' employment is covered by a collective bargaining  
5 agreement pursuant to Title 39, chapter 31, or incorporated in district policy if the teachers' employment is not  
6 covered by a collective bargaining agreement, not including bonuses, stipends, or extended duty contracts."

7

8 ~~NEW SECTION. Section 4. Effective dates. (1) Except as provided in subsection (2), [this act] is~~  
9 ~~effective January 1, 2024.~~

10 ~~(2) [Sections 2 and 3] are effective July 1, 2025.~~

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12 **NEW SECTION. Section 3. Effective date.** [This act] is effective July 1, 2024.

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14 ~~NEW SECTION. Section 5. Applicability. (1) [Section 1] applies to income tax years beginning after~~  
15 ~~December 31, 2023.~~

16 ~~(2) [Sections 2 and 3] apply to additional quality educator payments made after June 30, 2025.~~

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- END -