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HOUSE BILL NO. 221

INTRODUCED BY T. WELCH, J. DOOLING, E. BUTTREY, D. LOGE, R. FITZGERALD, J. KASSMIER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAX RATES APPLICABLE TO NET LONG-TERM CAPITAL GAINS; AMENDING SECTIONS 15-30-2103 AND 15-30-2120, 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 15-30-2103, MCA, is amended to read:

"15-30-2103. (Temporary) Rate of tax. (1) Except as provided in 15-30-3704 there must be levied, collected, and paid for each tax year upon the taxable income of each taxpayer subject to this tax, after making allowance for exemptions and deductions as provided in this chapter, a tax on the brackets of taxable income as follows:

- (a) on the first \$2,900 of taxable income or any part of that income, 1%;
- (b) on the next \$2,200 of taxable income or any part of that income, 2%;
- (c) on the next \$2,700 of taxable income or any part of that income, 3%;
- (d) on the next \$2,700 of taxable income or any part of that income, 4%;
- (e) on the next \$3,000 of taxable income or any part of that income, 5%;
- (f) on the next \$3,900 of taxable income or any part of that income, 6%;
- (g) on any taxable income in excess of \$17,400 or any part of that income, [6.75%].

(2) By November 1 of each year, the department shall multiply the bracket amount contained in subsection (1) by the inflation factor for the following tax year and round the cumulative brackets to the nearest \$100. The resulting adjusted brackets are effective for that following tax year and must be used as the basis for imposition of the tax in subsection (1) of this section. (Bracketed language is temporarily amended to "6.9%" on occurrence of contingency for income tax years 2022 and 2023 until December 31, 2023--secs. 8, 10, Ch. 488, L. 2021--see compiler's comment.)

15-30-2103. (Effective January 1, 2024) Rate of tax -- net long-term capital gains -- definitions.

Amendment - 1st Reading-white - Requested by: Llew Jones - (H) Appropriations

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0221.001.001

1 (1) Except as provided in ~~15-30-3704~~ and subsection (2) of this section subsections (2) and (3), there must be
2 levied, collected, and paid for each tax year ~~upon~~on the Montana taxable income of each taxpayer subject to
3 this chapter a tax on the brackets of taxable income as follows:

4 (a) for every married individual who files a joint return and for every surviving spouse:

5 (i) on the first \$41,000 of Montana taxable income or any part of that income, 4.7%;

6 (ii) on any Montana taxable income in excess of \$41,000 or any part of that income, 6.5%;

7 (b) for every head of household:

8 (i) on the first \$30,750 of Montana taxable income or any part of that income, 4.7%;

9 (ii) on any Montana taxable income in excess of \$30,750 or any part of that income, 6.5%;

10 (c) for every individual other than a surviving spouse or head of household who is not a married

11 individual:

12 (i) on the first \$20,500 of Montana taxable income or any part of that income, 4.7%;

13 (ii) on any Montana taxable income in excess of \$20,500 or any part of that income, 6.5%;

14 (d) for every married individual who does not make a joint return and for every estate or trust not
15 exempt from taxation under the Internal Revenue Code:

16 (i) on the first \$20,500 of Montana taxable income or any part of that income, 4.7%;

17 (ii) on any Montana taxable income in excess of \$20,500 or any part of that income, 6.5%.

18 (2) Except as provided in 15-30-3704 and subsection (3) of this section, that portion of a

19 taxpayer's Montana taxable income that consists of net long-term capital gains after accounting for amounts

20 included in taxable income that is not net long-term capital gains is subject to a tax on the brackets of net long-

21 term capital gains as follows:

22 (a) for every married individual who files a joint return and for every surviving spouse:

23 (i) on the first \$41,000 less nonqualified taxable income of net long-term capital gains, 3.0%;

24 (ii) on net long-term capital gains that exceed \$41,000 less nonqualified taxable income or any

25 part of that income, 4.1%, except that if the total nonqualified taxable income is \$41,000 or greater, all of the net

26 long-term capital gains are taxed at 4.1%;

27 (b) for every head of household:

28 (i) on the first \$30,750 less nonqualified taxable income of net long-term capital gains, 3.0%;

Amendment - 1st Reading-white - Requested by: Llew Jones - (H) Appropriations

- 2023

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1 (ii) on any net long-term capital gains that exceed \$30,750 less nonqualified taxable income or any
2 part of that income, 4.1%, except that if the total nonqualified taxable income is \$30,750 or greater, all of the net
3 long-term capital gains are taxed at 4.1%;

4 (c) for every individual other than a surviving spouse or head of household who is not a married
5 individual:

6 (i) on the first \$20,500 less nonqualified taxable income of net long-term capital gains, 3.0%;

7 (ii) on any net long-term capital gains that exceed \$20,500 less nonqualified taxable income or any
8 part of that income, 4.1%, except that if the total nonqualified taxable income is \$20,500 or greater, all of the net
9 long-term capital gains are taxed at 4.1%;

10 (d) for every married individual who does not make a joint return and for every estate or trust that
11 is not exempt from taxation under the Internal Revenue Code:

12 (i) on the first \$20,500 less nonqualified taxable income of net long-term capital gains, 3.0%;

13 (ii) on any net long-term capital gains that exceed \$20,500 less nonqualified taxable income or any
14 part of that income, 4.1%, except that if the total nonqualified taxable income is \$20,500 or greater, all of the net
15 long-term capital gains are taxed at 4.1%.

16 ~~(2)(3)~~ By November 1 of each year, the department shall multiply the bracket amounts contained in
17 ~~subsection-subsections (1) and (2)~~ by the inflation factor for the following tax year and round the cumulative
18 brackets to the nearest \$100. The resulting adjusted brackets are effective for that following tax year and must
19 be used as the basis for imposition of the tax in ~~subsection-subsections (1) and (2)~~.

20 (4) For the purposes of this section, the following definitions apply:

21 (a) "Net long-term capital gains" means net long-term capital gains as that term is defined in
22 section 1222 of the Internal Revenue Code, 26 U.S.C. 1222.

23 (b) "Nonqualified taxable income" means Montana taxable income that is not considered net long-
24 term capital gains."

25

26 **Section 2.** Section 15-30-2120, MCA, is amended to read:

27 **"15-30-2120. (Effective January 1, 2024) Adjustments to federal taxable income to determine**

28 **Montana taxable income.** (1) The items in subsection (2) are added to and the items in subsection (3) are

1 the taxpayer's child or stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of
2 subsection (2)(d) do not apply with respect to withdrawals of contributions that reduced taxable income.

3 (b) Contributions made pursuant to this subsection (6) are subject to the recapture tax provided in
4 53-25-118.

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

9

10 NEW SECTION. Section 3. Effective date. [This act] is effective January 1, 2024.

11

12 COORDINATION SECTION. Section 4. Coordination instruction. (1) If [this act] is passed and
13 approved and does not contain the percentages of 4.1% and 3.0% in the amended portion of [section 1] of [this
14 act], and if any of the five bills identified in subsection (2) are not passed and approved, then the percentage of
15 4.1% in the introduced version of [this act] is replaced with 4.5% and the percentage of 3.0% in the introduced
16 version of [this act] is replaced with 3.5% throughout [section 1] of [this act].

17 (2) The five bills are:

18 (a) House Bill No. 192;

19 (b) House Bill No. 212;

20 (c) House Bill No. 222;

21 (d) House Bill No. 251; and

22 (e) House Bill No. 267.

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24 NEW SECTION. Section 5. Applicability. [This act] applies to tax years beginning after December
25 31, 2023.

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- END -