

1 HOUSE BILL NO. 526  
2 INTRODUCED BY P. FIELDER, B. BROWN, S. GUNDERSON, L. SHELDON-GALLOWAY, B. BEARD, B.  
3 MITCHELL, S. ESSMANN, M. YAKAWICH, R. MINER, G. OBLANDER, L. DEMING, J. BERGSTROM, G.  
4 KMETZ

5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING A PORTION OF SOCIAL SECURITY BENEFITS  
7 FROM THE INCOME TAX; ~~REVISING A DEFINITION;~~ MODIFYING THE FEDERAL CALCULATION FOR  
8 TAXATION OF SOCIAL SECURITY BENEFITS ON A STATE RETURN; AMENDING ~~SECTIONS 15-30-2101~~  
9 AND SECTION 15-30-2120, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN  
10 APPLICABILITY DATE."

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13  
14 **Section 1.** Section 15-30-2101, MCA, is amended to read:  
15 ~~"15-30-2101. (Temporary) Definitions. For the purpose of this chapter, unless otherwise required by~~  
16 ~~the context, the following definitions apply:~~

- 17 (1) ~~"Base year structure" means the following elements of the income tax structure:~~  
18 (a) ~~the tax brackets established in 15-30-2103, but unadjusted by 15-30-2103(2), in effect on June~~  
19 ~~30 of the taxable year;~~  
20 (b) ~~the exemptions contained in 15-30-2114, but unadjusted by 15-30-2114(6), in effect on June~~  
21 ~~30 of the taxable year;~~  
22 (c) ~~the maximum standard deduction provided in 15-30-2132, but unadjusted by 15-30-2132(2), in~~  
23 ~~effect on June 30 of the taxable year.~~

24 (2) ~~"Consumer price index" means the consumer price index, United States city average, for all~~  
25 ~~items, for all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor~~  
26 ~~statistics of the U.S. department of labor.~~

27 (3) ~~"Corporation" or "C. corporation" means a corporation, limited liability company, or other entity:~~

**Amendment - 2nd Reading-yellow - Requested by: Jonathan Karlen - (H) Committee of the Whole**

- 2023  
68th Legislature 2023

Drafter: Jaret Coles, 406-444-4022

HB0526.001.001

- 1           ~~(a) — that is treated as an association for federal income tax purposes;~~
- 2           ~~(b) — for which a valid election under section 1362 of the Internal Revenue Code (26 U.S.C. 1362) is~~
- 3 ~~not in effect; and~~
- 4           ~~(c) — that is not a disregarded entity.~~
- 5           ~~(4) — "Department" means the department of revenue.~~
- 6           ~~(5) — "Disregarded entity" means a business entity:~~
- 7           ~~(a) — that is disregarded as an entity separate from its owner for federal tax purposes, as provided in~~
- 8 ~~United States treasury regulations 301.7701-2 or 301.7701-3, 26 CFR 301.7701-2 or 26 CFR 301.7701-3, or as~~
- 9 ~~those regulations may be labeled or amended; or~~
- 10           ~~(b) — that is a qualified subchapter S subsidiary that is not treated as a separate corporation, as~~
- 11 ~~provided in section 1361(b)(3) of the Internal Revenue Code (26 U.S.C. 1361(b)(3)).~~
- 12           ~~(6) — "Dividend" means:~~
- 13           ~~(a) — any distribution made by a C corporation out of its earnings and profits to its shareholders or~~
- 14 ~~members, whether in cash or in other property or in stock of the corporation, other than stock dividends; and~~
- 15           ~~(b) — any distribution made by an S corporation treated as a dividend for federal income tax~~
- 16 ~~purposes.~~
- 17           ~~(7) — "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any~~
- 18 ~~person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.~~
- 19           ~~(8) — "Foreign C corporation" means a corporation that is not engaged in or doing business in~~
- 20 ~~Montana, as provided in 15-31-101.~~
- 21           ~~(9) — "Foreign government" means any jurisdiction other than the one embraced within the United~~
- 22 ~~States, its territories, and its possessions.~~
- 23           ~~(10) — "Gross income" means the taxpayer's gross income for federal income tax purposes as defined~~
- 24 ~~in section 61 of the Internal Revenue Code (26 U.S.C. 61) or as that section may be labeled or amended,~~
- 25 ~~excluding unemployment compensation included in federal gross income under the provisions of section 85 of~~
- 26 ~~the Internal Revenue Code (26 U.S.C. 85) as amended.~~
- 27           ~~(11) — "Inflation factor" means a number determined for each tax year by dividing the consumer price~~

**Amendment - 2nd Reading-yellow - Requested by: Jonathan Karlen - (H) Committee of the Whole**

- 2023

68th Legislature 2023

Drafter: Jaret Coles, 406-444-4022

HB0526.001.001

1 ~~index for June of the previous tax year by the consumer price index for June 2015.~~

2 ~~(12) "Information agents" includes all individuals and entities acting in whatever capacity, including~~  
3 ~~lessees or mortgagors of real or personal property, fiduciaries, brokers, real estate brokers, employers, and all~~  
4 ~~officers and employees of the state or of any municipal corporation or political subdivision of the state, having~~  
5 ~~the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities,~~  
6 ~~compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits,~~  
7 ~~and income with respect to which any person or fiduciary is taxable under this chapter.~~

8 ~~(13) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, or as it may~~  
9 ~~be labeled or further amended. References to specific provisions of the Internal Revenue Code mean those~~  
10 ~~provisions as they may be otherwise labeled or further amended.~~

11 ~~(14) "Knowingly" is as defined in 45-2-101.~~

12 ~~(15) "Limited liability company" means a limited liability company, domestic limited liability company,~~  
13 ~~or a foreign limited liability company as defined in 35-8-102.~~

14 ~~(16) "Limited liability partnership" means a limited liability partnership as defined in 35-10-102.~~

15 ~~(17) "Lottery winnings" means income paid either in lump sum or in periodic payments to:~~

16 ~~(a) a resident taxpayer on a lottery ticket; or~~

17 ~~(b) a nonresident taxpayer on a lottery ticket purchased in Montana.~~

18 ~~(18) (a) "Montana source income" means:~~

19 ~~(i) wages, salary, tips, and other compensation for services performed in the state or while a~~  
20 ~~resident of the state;~~

21 ~~(ii) gain attributable to the sale or other transfer of tangible property located in the state, sold or~~  
22 ~~otherwise transferred while a resident of the state, or used or held in connection with a trade, business, or~~  
23 ~~occupation carried on in the state;~~

24 ~~(iii) gain attributable to the sale or other transfer of intangible property received or accrued while a~~  
25 ~~resident of the state;~~

26 ~~(iv) interest received or accrued while a resident of the state or from an installment sale of real~~  
27 ~~property or tangible commercial or business personal property located in the state;~~

**Amendment - 2nd Reading-yellow - Requested by: Jonathan Karlen - (H) Committee of the Whole**

- 2023  
68th Legislature 2023

Drafter: Jaret Coles, 406-444-4022

HB0526.001.001

- 1 ~~(v) — dividends received or accrued while a resident of the state;~~
- 2 ~~(vi) — net income or loss derived from a trade, business, profession, or occupation carried on in the~~
- 3 ~~state or while a resident of the state;~~
- 4 ~~(vii) — net income or loss derived from farming activities carried on in the state or while a resident of~~
- 5 ~~the state;~~
- 6 ~~(viii) — net rents from real property and tangible personal property located in the state or received or~~
- 7 ~~accrued while a resident of the state;~~
- 8 ~~(ix) — net royalties from real property and from tangible real property to the extent the property is~~
- 9 ~~used in the state or the net royalties are received or accrued while a resident of the state. The extent of use in~~
- 10 ~~the state is determined by multiplying the royalties by a fraction, the numerator of which is the number of days~~
- 11 ~~of physical location of the property in the state during the royalty period in the tax year and the denominator of~~
- 12 ~~which is the number of days of physical location of the property everywhere during all royalty periods in the tax~~
- 13 ~~year. If the physical location is unknown or unascertainable by the taxpayer, the property is considered used in~~
- 14 ~~the state in which it was located at the time the person paying the royalty obtained possession.~~
- 15 ~~(x) — patent royalties to the extent the person paying them employs the patent in production,~~
- 16 ~~fabrication, manufacturing, or other processing in the state, a patented product is produced in the state, or the~~
- 17 ~~royalties are received or accrued while a resident of the state;~~
- 18 ~~(xi) — net copyright royalties to the extent printing or other publication originates in the state or the~~
- 19 ~~royalties are received or accrued while a resident of the state;~~
- 20 ~~(xii) — partnership income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or~~
- 21 ~~credit:~~
- 22 ~~(A) — derived from a trade, business, occupation, or profession carried on in the state;~~
- 23 ~~(B) — derived from the sale or other transfer or the rental, lease, or other commercial exploitation of~~
- 24 ~~property located in the state; or~~
- 25 ~~(C) — taken into account while a resident of the state;~~
- 26 ~~(xiii) — an S. corporation's separately and nonseparately stated income, gain, loss, deduction, or credit~~
- 27 ~~or item of income, gain, loss, deduction, or credit:~~

**Amendment - 2nd Reading-yellow - Requested by: Jonathan Karlen - (H) Committee of the Whole**

- 2023  
68th Legislature 2023

Drafter: Jaret Coles, 406-444-4022

HB0526.001.001

- 1 ~~(A) — derived from a trade, business, occupation, or profession carried on in the state;~~
- 2 ~~(B) — derived from the sale or other transfer or the rental, lease, or other commercial exploitation of~~
- 3 ~~property located in the state; or~~
- 4 ~~(C) — taken into account while a resident of the state;~~
- 5 ~~(xiv) — social security benefits received or accrued while a resident of the state;~~
- 6 ~~(xv) — taxable individual retirement account distributions, annuities, pensions, and other retirement~~
- 7 ~~benefits received while a resident of the state;~~
- 8 ~~(xvi) — any other income attributable to the state, including but not limited to lottery winnings, state and~~
- 9 ~~federal tax refunds, nonemployee compensation, recapture of tax benefits, and capital loss addbacks; and~~
- 10 ~~(xvii) — in the case of a nonresident who sells the nonresident's interest in a publicly traded partnership~~
- 11 ~~doing business in Montana, the gain described in section 751 of the Internal Revenue Code, 26 U.S.C. 751,~~
- 12 ~~multiplied by the Montana apportionment factor. If the net gain or loss resulting from the use of the~~
- 13 ~~apportionment factor as provided in this subsection (18)(a)(xvii) does not fairly and equitably represent the~~
- 14 ~~nonresident taxpayer's business activity interest, then the nonresident taxpayer may petition for, or the~~
- 15 ~~department may require with respect to any and all of the partnership interest, the employment of another~~
- 16 ~~method to effectuate an equitable allocation or apportionment of the nonresident's income. This subsection~~
- 17 ~~(18)(a)(xvii) is intended to preserve the rights and privileges of a nonresident taxpayer and align those rights~~
- 18 ~~with taxpayers who are afforded the same rights under 15-1-601 and 15-31-312.~~
- 19 ~~(b) — The term does not include:~~
- 20 ~~(i) — compensation for military service of members of the armed services of the United States who~~
- 21 ~~are not Montana residents and who are residing in Montana solely by reason of compliance with military orders~~
- 22 ~~and does not include income derived from their personal property located in the state except with respect to~~
- 23 ~~personal property used in or arising from a trade or business carried on in Montana; or~~
- 24 ~~(ii) — interest paid on loans held by out-of-state financial institutions recognized as such in the state~~
- 25 ~~of their domicile, secured by mortgages, trust indentures, or other security interests on real or personal property~~
- 26 ~~located in the state, if the loan is originated by a lender doing business in Montana and assigned out-of-state~~
- 27 ~~and there is no activity conducted by the out-of-state lender in Montana except periodic inspection of the~~

**Amendment - 2nd Reading-yellow - Requested by: Jonathan Karlen - (H) Committee of the Whole**

- 2023  
68th Legislature 2023

Drafter: Jaret Coles, 406-444-4022

HB0526.001.001

1 ~~security.~~

2 ~~(19) — "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by~~  
3 ~~this chapter.~~

4 ~~(20) — "Nonresident" means a natural person who is not a resident.~~

5 ~~(21) — "Paid", for the purposes of the deductions and credits under this chapter, means paid or~~  
6 ~~accrued or paid or incurred, and the terms "paid or accrued" and "paid or incurred" must be construed~~  
7 ~~according to the method of accounting upon the basis of which the taxable income is computed under this~~  
8 ~~chapter.~~

9 ~~(22) — "Partner" means a member of a partnership or a manager or member of any other entity, if~~  
10 ~~treated as a partner for federal income tax purposes.~~

11 ~~(23) — "Partnership" means a general or limited partnership, limited liability partnership, limited liability~~  
12 ~~company, or other entity, if treated as a partnership for federal income tax purposes.~~

13 ~~(24) — "Pass-through entity" means a partnership, an S. corporation, or a disregarded entity.~~

14 ~~(25) — "Pension and annuity income" means:~~

15 ~~(a) — systematic payments of a definitely determinable amount from a qualified pension plan, as that~~  
16 ~~term is used in section 401 of the Internal Revenue Code (26 U.S.C. 401), or systematic payments received as~~  
17 ~~the result of contributions made to a qualified pension plan that are paid to the recipient or recipient's~~  
18 ~~beneficiary upon the cessation of employment;~~

19 ~~(b) — payments received as the result of past service and cessation of employment in the uniformed~~  
20 ~~services of the United States;~~

21 ~~(c) — lump-sum distributions from pension or profit-sharing plans to the extent that the distributions~~  
22 ~~are included in federal adjusted gross income;~~

23 ~~(d) — distributions from individual retirement, deferred compensation, and self-employed retirement~~  
24 ~~plans recognized under sections 401 through 408 of the Internal Revenue Code (26 U.S.C. 401 through 408) to~~  
25 ~~the extent that the distributions are not considered to be premature distributions for federal income tax~~  
26 ~~purposes; or~~

27 ~~(e) — amounts received from fully matured, privately purchased annuity contracts after cessation of~~

**Amendment - 2nd Reading-yellow - Requested by: Jonathan Karlen - (H) Committee of the Whole**

- 2023  
68th Legislature 2023

Drafter: Jaret Coles, 406-444-4022

HB0526.001.001

1 ~~regular employment.~~

2 ~~(26) — "Purposely" is as defined in 45-2-101.~~

3 ~~(27) — "Received", for the purpose of computation of taxable income under this chapter, means~~  
4 ~~received or accrued, and the term "received or accrued" must be construed according to the method of~~  
5 ~~accounting upon the basis of which the taxable income is computed under this chapter.~~

6 ~~(28) — "Resident" applies only to natural persons and includes, for the purpose of determining liability~~  
7 ~~to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the~~  
8 ~~state of Montana and any other person who maintains a permanent place of abode within the state even though~~  
9 ~~temporarily absent from the state and who has not established a residence elsewhere.~~

10 ~~(29) — "S. corporation" means an incorporated entity for which a valid election under section 1362 of~~  
11 ~~the Internal Revenue Code (26 U.S.C. 1362) is in effect.~~

12 ~~(30) — "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in~~  
13 ~~proportion to their previous holdings.~~

14 ~~(31) — "Tax year" means the taxpayer's taxable year for federal income tax purposes.~~

15 ~~(32) — "Taxable income" means the adjusted gross income of a taxpayer less the deductions and~~  
16 ~~exemptions provided for in this chapter.~~

17 ~~(33) — "Taxpayer" includes any person, entity, or fiduciary, resident or nonresident, subject to a tax or~~  
18 ~~other obligation imposed by this chapter and unless otherwise specifically provided does not include a C-~~  
19 ~~corporation.~~

20 ~~**15-30-2101. (Effective January 1, 2024) Definitions.** For the purpose of this chapter, unless~~  
21 ~~otherwise required by the context, the following definitions apply:~~

22 ~~(1) — "Consumer price index" means the consumer price index, United States city average, for all~~  
23 ~~items, for all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor~~  
24 ~~statistics of the U.S. department of labor.~~

25 ~~(2) — "Corporation" or "C. corporation" means a corporation, limited liability company, or other entity:~~

26 ~~(a) — that is treated as an association for federal income tax purposes;~~

27 ~~(b) — for which a valid election under section 1362 of the Internal Revenue Code (26 U.S.C. 1362) is~~

**Amendment - 2nd Reading-yellow - Requested by: Jonathan Karlen - (H) Committee of the Whole**

- 2023  
68th Legislature 2023

Drafter: Jaret Coles, 406-444-4022

HB0526.001.001

- 1 ~~not in effect; and~~
- 2 ~~(c) — that is not a disregarded entity.~~
- 3 ~~(3) — "Department" means the department of revenue.~~
- 4 ~~(4) — "Disregarded entity" means a business entity:~~
- 5 ~~(a) — that is disregarded as an entity separate from its owner for federal tax purposes, as provided in~~
- 6 ~~United States treasury regulations 301.7701-2 or 301.7701-3, 26 CFR 301.7701-2 or 26 CFR 301.7701-3, or as~~
- 7 ~~these regulations may be labeled or amended; or~~
- 8 ~~(b) — that is a qualified subchapter S subsidiary that is not treated as a separate corporation, as~~
- 9 ~~provided in section 1361(b)(3) of the Internal Revenue Code (26 U.S.C. 1361(b)(3)).~~
- 10 ~~(5) — "Dividend" means:~~
- 11 ~~(a) — any distribution made by a C corporation out of its earnings and profits to its shareholders or~~
- 12 ~~members, whether in cash or in other property or in stock of the corporation, other than stock dividends; and~~
- 13 ~~(b) — any distribution made by an S corporation treated as a dividend for federal income tax~~
- 14 ~~purposes.~~
- 15 ~~(6) — "Federal adjusted gross income" means adjusted gross income as defined in section 62 of the~~
- 16 ~~Internal Revenue Code, 26 U.S.C. 62.~~
- 17 ~~(7) — "Federal taxable income", when referring to an individual, means taxable income as defined~~
- 18 ~~and described in section 63 of the Internal Revenue Code, 26 U.S.C. 63, and, when referring to a trust or~~
- 19 ~~estate, means taxable income as defined and described in sections 641 through 692 of the Internal Revenue~~
- 20 ~~Code, 26 U.S.C. 641 through 692.~~
- 21 ~~(8) — "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any~~
- 22 ~~person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.~~
- 23 ~~(9) — "Foreign C corporation" means a corporation that is not engaged in or doing business in~~
- 24 ~~Montana, as provided in 15-31-101.~~
- 25 ~~(10) — "Foreign government" means any jurisdiction other than the one embraced within the United~~
- 26 ~~States, its territories, and its possessions.~~
- 27 ~~(11) — "Head of household" means a head of household as defined and described in section 2(b) of~~

**Amendment - 2nd Reading-yellow - Requested by: Jonathan Karlen - (H) Committee of the Whole**

- 2023  
68th Legislature 2023

Drafter: Jaret Coles, 406-444-4022

HB0526.001.001

1 ~~the Internal Revenue Code, 26 U.S.C. 2(b).~~

2 ~~(12) "Inflation factor" means a number determined for each tax year by dividing the consumer price~~  
3 ~~index for June of the previous tax year by the consumer price index for June 2023.~~

4 ~~(13) "Information agents" includes all individuals and entities acting in whatever capacity, including~~  
5 ~~lessees or mortgagors of real or personal property, fiduciaries, brokers, real estate brokers, employers, and all~~  
6 ~~officers and employees of the state or of any municipal corporation or political subdivision of the state, having~~  
7 ~~the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities,~~  
8 ~~compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits,~~  
9 ~~and income with respect to which any person or fiduciary is taxable under this chapter.~~

10 ~~(14) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, or as it may~~  
11 ~~be labeled or further amended. References to specific provisions of the Internal Revenue Code mean those~~  
12 ~~provisions as they may be otherwise labeled or further amended.~~

13 ~~(15) "Joint return" means one return made jointly by a married individual with that individual's~~  
14 ~~spouse.~~

15 ~~(16) "Knowingly" is as defined in 45-2-101.~~

16 ~~(17) "Limited liability company" means a limited liability company, domestic limited liability company,~~  
17 ~~or a foreign limited liability company as defined in 35-8-102.~~

18 ~~(18) "Limited liability partnership" means a limited liability partnership as defined in 35-10-102.~~

19 ~~(19) "Lottery winnings" means income paid either in lump sum or in periodic payments to:~~

20 ~~(a) a resident taxpayer on a lottery ticket; or~~

21 ~~(b) a nonresident taxpayer on a lottery ticket purchased in Montana.~~

22 ~~(20) "Married individual" means a married individual as defined and described in section 7703 of the~~  
23 ~~Internal Revenue Code, 26 U.S.C. 7703.~~

24 ~~(21) (a) "Montana source income" means:~~

25 ~~(i) wages, salary, tips, and other compensation for services performed in the state or while a~~  
26 ~~resident of the state;~~

27 ~~(ii) gain attributable to the sale or other transfer of tangible property located in the state, sold or~~

**Amendment - 2nd Reading-yellow - Requested by: Jonathan Karlen - (H) Committee of the Whole**

- 2023  
68th Legislature 2023

Drafter: Jaret Coles, 406-444-4022

HB0526.001.001

- 1 ~~otherwise transferred while a resident of the state, or used or held in connection with a trade, business, or~~  
2 ~~occupation carried on in the state;~~
- 3 ~~(iii) — gain attributable to the sale or other transfer of intangible property received or accrued while a~~  
4 ~~resident of the state;~~
- 5 ~~(iv) — interest received or accrued while a resident of the state or from an installment sale of real~~  
6 ~~property or tangible commercial or business personal property located in the state;~~
- 7 ~~(v) — dividends received or accrued while a resident of the state;~~
- 8 ~~(vi) — net income or loss derived from a trade, business, profession, or occupation carried on in the~~  
9 ~~state or while a resident of the state;~~
- 10 ~~(vii) — net income or loss derived from farming activities carried on in the state or while a resident of~~  
11 ~~the state;~~
- 12 ~~(viii) — net rents from real property and tangible personal property located in the state or received or~~  
13 ~~accrued while a resident of the state;~~
- 14 ~~(ix) — net royalties from real property and from tangible real property to the extent the property is~~  
15 ~~used in the state or the net royalties are received or accrued while a resident of the state. The extent of use in~~  
16 ~~the state is determined by multiplying the royalties by a fraction, the numerator of which is the number of days~~  
17 ~~of physical location of the property in the state during the royalty period in the tax year and the denominator of~~  
18 ~~which is the number of days of physical location of the property everywhere during all royalty periods in the tax~~  
19 ~~year. If the physical location is unknown or unascertainable by the taxpayer, the property is considered used in~~  
20 ~~the state in which it was located at the time the person paying the royalty obtained possession.~~
- 21 ~~(x) — patent royalties to the extent the person paying them employs the patent in production,~~  
22 ~~fabrication, manufacturing, or other processing in the state, a patented product is produced in the state, or the~~  
23 ~~royalties are received or accrued while a resident of the state;~~
- 24 ~~(xi) — net copyright royalties to the extent printing or other publication originates in the state or the~~  
25 ~~royalties are received or accrued while a resident of the state;~~
- 26 ~~(xii) — partnership income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or~~  
27 ~~credit;~~

**Amendment - 2nd Reading-yellow - Requested by: Jonathan Karlen - (H) Committee of the Whole**

- 2023  
68th Legislature 2023

Drafter: Jaret Coles, 406-444-4022

HB0526.001.001

- 1           ~~(A) — derived from a trade, business, occupation, or profession carried on in the state;~~
- 2           ~~(B) — derived from the sale or other transfer or the rental, lease, or other commercial exploitation of~~
- 3 ~~property located in the state; or~~
- 4           ~~(C) — taken into account while a resident of the state;~~
- 5           ~~(xiii) — an S. corporation's separately and nonseparately stated income, gain, loss, deduction, or credit~~
- 6 ~~or item of income, gain, loss, deduction, or credit:~~
- 7           ~~(A) — derived from a trade, business, occupation, or profession carried on in the state;~~
- 8           ~~(B) — derived from the sale or other transfer or the rental, lease, or other commercial exploitation of~~
- 9 ~~property located in the state; or~~
- 10          ~~(C) — taken into account while a resident of the state;~~
- 11          ~~(xiv) — social security benefits received or accrued while a resident of the state;~~
- 12          ~~(xv)(xiv) — taxable individual retirement account distributions, annuities, pensions, and other retirement~~
- 13 ~~benefits received while a resident of the state;~~
- 14          ~~(xvi)(xv) — any other income attributable to the state, including but not limited to lottery winnings, state~~
- 15 ~~and federal tax refunds, nonemployee compensation, recapture of tax benefits, and capital loss addbacks; and~~
- 16          ~~(xvii)(xvi) — in the case of a nonresident who sells the nonresident's interest in a publicly traded~~
- 17 ~~partnership doing business in Montana, the gain described in section 751 of the Internal Revenue Code, 26~~
- 18 ~~U.S.C. 751, multiplied by the Montana apportionment factor. If the net gain or loss resulting from the use of the~~
- 19 ~~apportionment factor as provided in this subsection (21)(a)(xvii) (21)(a)(xvi) does not fairly and equitably~~
- 20 ~~represent the nonresident taxpayer's business activity interest, then the nonresident taxpayer may petition for,~~
- 21 ~~or the department may require with respect to any and all of the partnership interest, the employment of another~~
- 22 ~~method to effectuate an equitable allocation or apportionment of the nonresident's income. This subsection~~
- 23 ~~(21)(a)(xvii) (21)(a)(xvi) is intended to preserve the rights and privileges of a nonresident taxpayer and align~~
- 24 ~~those rights with taxpayers who are afforded the same rights under 15-1-601 and 15-31-312.~~
- 25          ~~(b) — The term does not include:~~
- 26           ~~(i) — compensation for military service of members of the armed services of the United States who~~
- 27 ~~are not Montana residents and who are residing in Montana solely by reason of compliance with military orders~~

**Amendment - 2nd Reading-yellow - Requested by: Jonathan Karlen - (H) Committee of the Whole**

- 2023  
68th Legislature 2023

Drafter: Jaret Coles, 406-444-4022

HB0526.001.001

1 ~~and does not include income derived from their personal property located in the state except with respect to~~  
2 ~~personal property used in or arising from a trade or business carried on in Montana; or~~  
3 ~~(ii) interest paid on loans held by out-of-state financial institutions recognized as such in the state~~  
4 ~~of their domicile, secured by mortgages, trust indentures, or other security interests on real or personal property~~  
5 ~~located in the state, if the loan is originated by a lender doing business in Montana and assigned out-of-state~~  
6 ~~and there is no activity conducted by the out-of-state lender in Montana except periodic inspection of the~~  
7 ~~security; or~~  
8 ~~(iii) social security benefits received or accrued while a resident of the state.~~  
9 ~~(22) "Montana taxable income" means federal taxable income as determined for federal income tax~~  
10 ~~purposes and adjusted as provided in 15-30-2120.~~  
11 ~~(23) "Nonresident" means a natural person who is not a resident.~~  
12 ~~(24) "Paid" means paid or accrued or paid or incurred, and the terms "paid or accrued" and "paid or~~  
13 ~~incurred" must be construed according to the method of accounting used to compute federal taxable income.~~  
14 ~~(25) "Partner" means a member of a partnership or a manager or member of any other entity, if~~  
15 ~~treated as a partner for federal income tax purposes.~~  
16 ~~(26) "Partnership" means a general or limited partnership, limited liability partnership, limited liability~~  
17 ~~company, or other entity, if treated as a partnership for federal income tax purposes.~~  
18 ~~(27) "Pass-through entity" means a partnership, an S. corporation, or a disregarded entity.~~  
19 ~~(28) "Pension and annuity income" means:~~  
20 ~~(a) systematic payments of a definitely determinable amount from a qualified pension plan, as that~~  
21 ~~term is used in section 401 of the Internal Revenue Code (26 U.S.C. 401), or systematic payments received as~~  
22 ~~the result of contributions made to a qualified pension plan that are paid to the recipient or recipient's~~  
23 ~~beneficiary upon the cessation of employment;~~  
24 ~~(b) payments received as the result of past service and cessation of employment in the uniformed~~  
25 ~~services of the United States;~~  
26 ~~(c) lump-sum distributions from pension or profit-sharing plans to the extent that the distributions~~  
27 ~~are included in federal adjusted gross income;~~

**Amendment - 2nd Reading-yellow - Requested by: Jonathan Karlen - (H) Committee of the Whole**

- 2023  
68th Legislature 2023

Drafter: Jaret Coles, 406-444-4022

HB0526.001.001

1 ~~(d) — distributions from individual retirement, deferred compensation, and self-employed retirement~~  
2 ~~plans recognized under sections 401 through 408 of the Internal Revenue Code (26 U.S.C. 401 through 408) to~~  
3 ~~the extent that the distributions are not considered to be premature distributions for federal income tax~~  
4 ~~purposes; or~~

5 ~~(e) — amounts received from fully matured, privately purchased annuity contracts after cessation of~~  
6 ~~regular employment.~~

7 ~~(29) — "Purposely" is as defined in 45-2-101.~~

8 ~~(30) — "Received" means received or accrued, and the term "received or accrued" must be construed~~  
9 ~~according to the method of accounting used to compute federal taxable income.~~

10 ~~(31) — "Resident" applies only to natural persons and includes, for the purpose of determining liability~~  
11 ~~to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the~~  
12 ~~state of Montana and any other person who maintains a permanent place of abode within the state even though~~  
13 ~~temporarily absent from the state and who has not established a residence elsewhere.~~

14 ~~(32) — "S. corporation" means an incorporated entity for which a valid election under section 1362 of~~  
15 ~~the Internal Revenue Code, 26 U.S.C. 1362, is in effect.~~

16 ~~(33) — "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in~~  
17 ~~proportion to their previous holdings.~~

18 ~~(34) — "Surviving spouse" means a surviving spouse as defined and described in section 2(a) of the~~  
19 ~~Internal Revenue Code, 26 U.S.C. 2(a).~~

20 ~~(35) — "Tax year" means the taxpayer's taxable year for federal income tax purposes.~~

21 ~~(36) — "Taxpayer" includes any person, entity, or fiduciary, resident or nonresident, subject to a tax or~~  
22 ~~other obligation imposed by this chapter and unless otherwise specifically provided does not include a C-~~  
23 ~~corporation."~~

24  
25 **Section 1.** Section 15-30-2120, MCA, is amended to read:

26 **"15-30-2120. (Effective January 1, 2024) Adjustments to federal taxable income to determine**  
27 **Montana taxable income.** (1) The items in subsection (2) are added to and the items in subsection (3) are

**Amendment - 2nd Reading-yellow - Requested by: Jonathan Karlen - (H) Committee of the Whole**

- 2023

68th Legislature 2023

Drafter: Jaret Coles, 406-444-4022

HB0526.001.001

1 subtracted from federal taxable income to determine Montana taxable income.

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

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

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

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

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

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

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

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

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

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

25 (j) for a taxpayer that deducts state income taxes pursuant to section 164(a)(3) of the Internal  
26 Revenue Code, 26 U.S.C. 164(a)(3), an additional amount equal to the state income tax deduction claimed, not  
27 to exceed the amount required to reduce the federal itemized amount computed under section 161 of the

**Amendment - 2nd Reading-yellow - Requested by: Jonathan Karlen - (H) Committee of the Whole**

- 2023

68th Legislature 2023

Drafter: Jaret Coles, 406-444-4022

HB0526.001.001

1 Internal Revenue Code, 26 U.S.C. 161, to the amount of the federal standard deduction allowable under  
2 section 63(c) of the Internal Revenue Code, 26 U.S.C. 63(c).

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

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

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

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

11 (ii) railroad retirement benefits;

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

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

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

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

21 (iii) the amount received pursuant to 10-1-1114 or from the federal government by a service  
22 member, as defined in 10-1-1112, as reimbursement for group life insurance premiums paid;

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

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

**Amendment - 2nd Reading-yellow - Requested by: Jonathan Karlen - (H) Committee of the Whole**

- 2023

68th Legislature 2023

Drafter: Jaret Coles, 406-444-4022

HB0526.001.001

1 manner as other income tax refund claims are paid.

2 (d) interest and other income related to contributions that were made prior to January 1, 2024, that  
3 are retained in a medical care savings account provided for in Title 15, chapter 61, and any withdrawal for  
4 payment of eligible medical expenses or for the long-term care of the employee or account holder or a  
5 dependent of the employee or account holder;

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

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

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

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

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

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

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

23 (l) an amount equal to 30% of net-long term capital gains, as defined in section 1222 of the  
24 Internal Revenue Code, 26 U.S.C. 1222, if and to the extent such gain is taken into account in computing  
25 federal taxable income; ~~and~~

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

**Amendment - 2nd Reading-yellow - Requested by: Jonathan Karlen - (H) Committee of the Whole**

- 2023

68th Legislature 2023

Drafter: Jaret Coles, 406-444-4022

HB0526.001.001

1 (n) certain social security and tier 1 railroad retirement benefits as determined under subsection

2 (7).

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

5 (i) by an amount for wages and salaries for which a federal tax credit was elected under sections  
6 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  
7 wages and salaries paid regardless of the credit taken; or

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

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

15 (5) (a) An individual who contributes to one or more accounts established under the Montana  
16 family education savings program or to a qualified tuition program established and maintained by another state  
17 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  
18 taxable income by the lesser of \$3,000 or the amount of the contribution. In the case of married taxpayers, each  
19 spouse is entitled to a reduction, not in excess of \$3,000, for the spouses' contributions to the accounts.  
20 Spouses may jointly elect to treat half of the total contributions made by the spouses as being made by each  
21 spouse. The reduction in taxable income under this subsection (5)(a) applies only with respect to contributions  
22 to an account of which the account owner is the taxpayer, the taxpayer's spouse, or the taxpayer's child or  
23 stepchild if the taxpayer's child or stepchild is a Montana resident. The provisions of subsection (2)(d) do not  
24 apply with respect to withdrawals of contributions that reduced federal taxable income.

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

27 (6) (a) An individual who contributes to one or more accounts established under the Montana

**Amendment - 2nd Reading-yellow - Requested by: Jonathan Karlen - (H) Committee of the Whole**

- 2023

68th Legislature 2023

Drafter: Jaret Coles, 406-444-4022

HB0526.001.001

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

9 (b) Contributions made pursuant to this subsection (6) are subject to the recapture tax provided in  
10 53-25-118.

11 (7) (a) Subject to subsection (7)(b), taxpayers who are required to include part of their social  
12 security benefits or part of their tier 1 railroad retirement benefits in federal taxable income shall calculate the  
13 amount included in Montana taxable income as provided for in section 86 of the Internal Revenue Code, 26  
14 U.S.C. 86, except that:

15 (i) for each taxpayer filing singly or head of household, "base amount" means \$40,000 and  
16 "adjusted base amount" means \$49,000; and

17 (ii) in the case of married taxpayers filing jointly, "base amount" means \$65,000 and "adjusted  
18 base amount" means \$77,000.

19 (b) Subsection (7)(a) does not apply if the calculation results in a taxpayer including more in  
20 Montana taxable income than the amount included in Montana taxable income before the calculation.

21 (7)(8) By November 1 of each year, the department shall multiply the subtraction from federal taxable  
22 income for a taxpayer that has attained the age of 65 contained in subsection (3)(g) by the inflation factor for  
23 that tax year, rounding the result to the nearest \$10. The resulting amount is effective for that tax year and must  
24 be used as the basis for the subtraction from federal taxable income determined under subsection (3)(g)."

25

26 NEW SECTION. Section 2. Effective date. [This act] is effective January 1, 2024.

27

