

SENATE BILL NO. 323

INTRODUCED BY J. KASSMIER, R. GREGG, B. GILLESPIE, W. MCKAMEY, G. LAMMERS, E. BOLDMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING INDIVIDUAL INCOME TAX LAWS; REDUCING THE TOP MARGINAL INDIVIDUAL INCOME TAX RATE; INCREASING THE EARNED INCOME TAX CREDIT; AMENDING SECTIONS 15-30-2103 AND 15-30-2318, MCA; AND PROVIDING EFFECTIVE DATES, APPLICABILITY DATES, AND A TERMINATION 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. Rate of tax -- net long-term capital gains -- definitions. (1) Except as provided in subsections (2) and (3), there must be levied, collected, and paid for each tax year on the Montana taxable income of each taxpayer subject to this chapter a tax on the brackets of taxable income as follows:

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

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

(ii) on any Montana taxable income in excess of \$41,000 or any part of that income, ~~5.9%~~ 5.4%;

(b) for every head of household:

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

(ii) on any Montana taxable income in excess of \$30,750 or any part of that income, ~~5.9%~~ 5.4%;

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

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

(ii) on any Montana taxable income in excess of \$20,500 or any part of that income, ~~5.9%~~ 5.4%;

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

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

(ii) on any Montana taxable income in excess of \$20,500 or any part of that income, ~~5.9%~~ 5.4%.

(2) Except as provided in 15-30-3704 and subsection (3) of this section, that portion of a taxpayer's Montana taxable income that consists of net long-term capital gains after accounting for amounts included in taxable income that is not net long-term capital gains is subject to a tax on the brackets of net long-term capital gains as follows:

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

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

(ii) on net long-term capital gains that exceed \$41,000 less nonqualified taxable income or any part of that income, ~~4.1%~~ 3.9%, except that if the total nonqualified taxable income is \$41,000 or greater, all of the net long-term capital gains are taxed at ~~4.1%~~ 3.9%;

(b) for every head of household:

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

(ii) on any net long-term capital gains that exceed \$30,750 less nonqualified taxable income or any part of that income, ~~4.1%~~ 3.9%, except that if the total nonqualified taxable income is \$30,750 or greater, all of the net long-term capital gains are taxed at ~~4.1%~~ 3.9%;

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

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

(ii) on any net long-term capital gains that exceed \$20,500 less nonqualified taxable income or any part of that income, ~~4.1%~~ 3.9%, except that if the total nonqualified taxable income is \$20,500 or greater, all of the net long-term capital gains are taxed at ~~4.1%~~ 3.9%;

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

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

(ii) on any net long-term capital gains that exceed \$20,500 less nonqualified taxable income or any part of that income, ~~4.1%~~ 3.9%, except that if the total nonqualified taxable income is \$20,500 or greater, all of the net long-term capital gains are taxed at ~~4.1%~~ 3.9%.

(3) By November 1 of each year, the department shall multiply the bracket amounts contained in subsections (1) and (2) by the inflation factor for the following tax year and round the cumulative brackets to the

1 nearest \$100. The resulting adjusted brackets are effective for that following tax year and must be used as the
2 basis for imposition of the tax in subsections (1) and (2).

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

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

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

8
9 **Section 2.** Section 15-30-2103, MCA, is amended to read:

10 **"15-30-2103. Rate of tax -- net long-term capital gains -- definitions.** (1) Except as provided in
11 subsections (2) and (3), there must be levied, collected, and paid for each tax year on the Montana taxable
12 income of each taxpayer subject to this chapter a tax on the brackets of taxable income as follows:

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

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

15 (ii) on any Montana taxable income in excess of \$41,000 or any part of that income, ~~5.9%~~ 4.9%;

16 (b) for every head of household:

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

18 (ii) on any Montana taxable income in excess of \$30,750 or any part of that income, ~~5.9%~~ 4.9%;

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

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

22 (ii) on any Montana taxable income in excess of \$20,500 or any part of that income, ~~5.9%~~ 4.9%;

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

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

26 (ii) on any Montana taxable income in excess of \$20,500 or any part of that income, ~~5.9%~~ 4.9%.

27 (2) Except as provided in 15-30-3704 and subsection (3) of this section, that portion of a taxpayer's
28 Montana taxable income that consists of net long-term capital gains after accounting for amounts included in

1 taxable income that is not net long-term capital gains is subject to a tax on the brackets of net long-term capital
2 gains as follows:

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

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

5 (ii) on net long-term capital gains that exceed \$41,000 less nonqualified taxable income or any
6 part of that income, ~~4.1%~~ 3.9%, except that if the total nonqualified taxable income is \$41,000 or greater, all of
7 the net long-term capital gains are taxed at ~~4.1%~~ 3.9%;

8 (b) for every head of household:

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

10 (ii) on any net long-term capital gains that exceed \$30,750 less nonqualified taxable income or any
11 part of that income, ~~4.1%~~ 3.9%, except that if the total nonqualified taxable income is \$30,750 or greater, all of
12 the net long-term capital gains are taxed at ~~4.1%~~ 3.9%;

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

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

16 (ii) on any net long-term capital gains that exceed \$20,500 less nonqualified taxable income or any
17 part of that income, ~~4.1%~~ 3.9%, except that if the total nonqualified taxable income is \$20,500 or greater, all of
18 the net long-term capital gains are taxed at ~~4.1%~~ 3.9%;

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

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

22 (ii) on any net long-term capital gains that exceed \$20,500 less nonqualified taxable income or any
23 part of that income, ~~4.1%~~ 3.9%, except that if the total nonqualified taxable income is \$20,500 or greater, all of
24 the net long-term capital gains are taxed at ~~4.1%~~ 3.9%.

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

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

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

4 (b) "Nonqualified taxable income" means Montana taxable income that is not considered net long-
5 term capital gains."
6

7 **Section 3.** Section 15-30-2318, MCA, is amended to read:

8 **"15-30-2318. Earned income tax credit.** (1) Except as provided in subsection (3), a resident
9 taxpayer is allowed as a credit against the tax imposed by 15-30-2103 a percentage of the credit allowed for the
10 federal earned income credit for which the individual taxpayer is eligible for the tax year under section 32 of the
11 Internal Revenue Code, 26 U.S.C. 32.

12 (2) The amount of the credit allowed under subsection (1) is ~~40%~~ 15% of the amount of the credit
13 determined for the tax year under section 32 of the Internal Revenue Code, 26 U.S.C. 32.

14 (3) The credit is not allowed on earned income that is treated as a dividend received by a member
15 of an agricultural organization provided for in section 501(d) of the Internal Revenue Code, 26 U.S.C. 501(d).
16 For the purpose of this subsection, the amount of the state tax credit provided for in subsection (2) is reduced
17 by the reduction percentage.

18 (4) The taxpayer is entitled to a refund equal to the amount by which the credit exceeds the
19 taxpayer's tax liability or, if the taxpayer has no tax liability under this chapter, a refund equal to the amount of
20 the credit. The credit may be claimed by filing a Montana income tax return.

21 (5) For the purpose of this section, the following definitions apply:

22 (a) "Earned income" means earned income, as defined in section 32 of the Internal Revenue
23 Code, 26 U.S.C. 32, that was used to determine the amount of the federal earned income tax credit under
24 subsection (2).

25 (b) "Reduction percentage" means a percentage that is calculated by dividing the earned income
26 that is disallowed under subsection (3) by the total amount of earned income."
27

28 NEW SECTION. **Section 4. Effective dates.** (1) Except as provided in subsections (2) and (3), [this

1 act] is effective on passage and approval.

2 (2) [Sections 1 and 3] are effective January 1, 2026.

3 (3) [Section 2] is effective January 1, 2027.

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5 NEW SECTION. **Section 5. Applicability.** (1) [Section 1] applies to the income tax year beginning
6 after December 31, 2025.

7 (2) [Section 2] applies to income tax years beginning after December 31, 2026.

8 (3) [Section 3] applies to income tax years beginning after December 31, 2025.

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10 NEW SECTION. **Section 6. Termination.** [Section 1] terminates December 31, 2026.

11 - END -