

HOUSE BILL NO. 904

INTRODUCED BY P. ELVERUM, D. BAUM, B. EDWARDS, M. ROMANO, J. SECKINGER, P. TUSS

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING CAPITAL GAINS TAX PREFERENCES WHEN MONTANA TAXABLE INCOME EXCEEDS CERTAIN AMOUNTS; REVISING DEFINITIONS; AMENDING SECTION 15-30-2103, 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. 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%;

(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%;

(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%;

(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%.

(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%, 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%;

(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%, 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%;

(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%, 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%;

(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%, 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) 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) (i) "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 (ii) The term does not include income from any sources that exceeds:

7 (A) \$1 million of Montana taxable income for a joint return or surviving spouse; and

8 (B) \$500,000 of Montana taxable income for all other return types.

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

11 (ii) The term includes all income, regardless of source, that exceeds more than:

12 (A) \$1 million of Montana taxable income for a joint return or surviving spouse; and

13 (B) \$500,000 of Montana taxable income for all other return types."

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15 NEW SECTION. Section 2. Effective date. [This act] is effective January 1, 2026.

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17 NEW SECTION. Section 3. Applicability. [This act] applies to income tax years beginning after
18 December 31, 2025.

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