

HOUSE BILL NO. 329

INTRODUCED BY E. BYRNE, S. KELLY, K. LOVE, G. OVERSTREET, T. SHARP, T. MILLETT, T.
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A BILL FOR AN ACT ENTITLED: "AN ACT ENCOURAGING THE FORMATION OF AMMUNITION
COMPONENT MANUFACTURING BUSINESSES IN MONTANA; PROVIDING EXEMPTIONS FROM
PROPERTY TAXES, INDIVIDUAL INCOME TAXES, CORPORATE INCOME TAXES, AND OTHER
BUSINESS-RELATED TAXES TO A MANUFACTURER OF AMMUNITION COMPONENTS; PROVIDING
EXEMPTIONS FROM INDIVIDUAL INCOME TAXES AND CORPORATE INCOME TAXES TO AN INVESTOR
OR LENDER THAT PROVIDES LOANS TO A MANUFACTURER OF AMMUNITION COMPONENTS;
AMENDING SECTIONS 15-6-219, 15-30-2120, AND 15-31-113, MCA; AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE, AND A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE."

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

**NEW SECTION. Section 1. Tax exemption for manufacturing of ammunition components --
conditions -- real property exemption applies to safety zone.** (1) A person or entity in this state engaged in
the primary business of the manufacture of ammunition components that meets the conditions in subsections
(2) through (4) is exempt from:

- (a) property taxes levied for state educational purposes under 20-9-331, 20-9-333, 20-9-360, and 20-25-439;
- (b) the business equipment tax levied pursuant to 15-6-138;
- (c) individual income taxes as provided in Title 15, chapter 30;
- (d) corporate income or alternative corporate income taxes as provided in Title 15, chapter 31; and
- (e) any other tax on business activity levied by the state, except:
 - (i) the local portion of property tax not exempt under subsection (1)(a); or
 - (ii) an employer's share of employee payroll taxes that are used to finance state-mandated

programs, including unemployment insurance and workers' compensation.

(2) A person or entity in this state engaged in the primary business of the manufacture of ammunition components is exempt from taxation as provided under subsection (1) if the person's or entity's business meets the following conditions:

(a) the products of the business are and remain available to commercial and individual consumers in the state;

(b) the business sells its products to in-state commercial and individual consumers for a price no greater than that for out-of-state purchasers, including any products that leave the state regardless of destination or purchaser; and

(c) the business does not enter into any agreement or contract that could actually or potentially command or commit all of its production to out-of-state consumers or interfere with or prohibit sales and provision of products to in-state consumers.

(3) The exemptions allowed under subsection (1) apply only to the property, income, and business activity attributable to the manufacture of ammunition components.

(4) The real property exemption allowed under subsection (1)(a) encompasses any property within 500 yards of a structure used for the manufacture of ammunition components or of any structure used for storage of products manufactured onsite.

NEW SECTION. Section 2. Tax exemptions for providing loans to manufacturer of ammunition components -- conditions. (1) Subject to subsection (2), a lender or investor that provides loans to a person or entity in this state engaged in the primary business of the manufacture of ammunition components under the provisions of [section 1] is exempt from:

(a) individual income taxes as provided in Title 15, chapter 30; and

(b) corporate income or alternative corporate income taxes as provided in Title 15, chapter 31.

(2) The exemption provided for in this section:

(a) does not apply to an employer's share of employee payroll taxes that are used to finance state-mandated programs, including unemployment insurance and workers' compensation; and

(b) may be claimed only for income attributable to providing a bona fide loan in an arms' length

transaction to a manufacturer of ammunition components that satisfies the conditions of [section 1].

NEW SECTION. Section 3. Manufacturer of ammunition components -- exemption from

statewide property taxes. As provided in [section 1], property used in the manufacture of ammunition components is exempt from the property taxes levied for state educational purposes under 20-9-331, 20-9-333, 20-9-360, and 20-25-439. The exemption must be administered and applied for as provided in [sections 1 and 2].

Section 4. Section 15-6-219, MCA, is amended to read:

"15-6-219. Personal and other property exemptions. (1) The following categories of property are exempt from taxation:

- (a) harness, saddlery, and other tack equipment;
- (b) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:
 - (i) construct, repair, and maintain improvements to real property; or
 - (ii) repair and maintain machinery, equipment, appliances, or other personal property;
- (c) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;
- (d) a bicycle or a moped, as defined in 61-8-102, used by the owner for personal transportation purposes;
- (e) items of personal property intended for rent or lease in the ordinary course of business if each item of personal property satisfies all of the following:
 - (i) the acquired cost of the personal property is less than \$15,000;
 - (ii) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals and no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and
 - (iii) the lease of the personal property is generally on an hourly, daily, weekly, semimonthly, or

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1 monthly basis;

2 (f) space vehicles and all machinery, fixtures, equipment, and tools used in the design,
3 manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged in
4 manufacturing and launching space vehicles in the state or that are owned by a contractor or subcontractor of
5 that business and that are directly used for space vehicle design, manufacture, launch, repair, and
6 maintenance;

7 (g) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in
8 33-25-105;

9 (h) air and water pollution control and carbon capture equipment, as defined in 15-6-135, placed in
10 service after January 1, 2014;

11 (i) a housetrailer, manufactured home, or mobile home that receives an exemption from the
12 department based on abandonment, as provided in 15-6-242; and

13 (j) fiber optic or coaxial cable, as defined in 15-6-156, installed and placed in service on or after
14 July 1, 2021, for a period of 5 years starting from the date placed in service as provided in 15-6-156, if the
15 owner of fiber optic or coaxial cable reinvests the tax savings from the exemption by installing and placing in
16 service new fiber optic or coaxial cable in Montana within 2 years from the date the owner first claimed the
17 exemption provided for in this subsection (1)(j) without charging those costs to the consumer. The cost of
18 installing or placing into service fiber optic or coaxial cable with the reinvested tax savings without charging
19 those costs to the consumer must be equal to or greater than the value of the tax savings received from the tax
20 incentive. An entity that claims a tax exemption under this subsection (1)(j) shall maintain adequate books and
21 records demonstrating the investment the owner made when installing and placing in service fiber optic or
22 coaxial cable in Montana. The property owners shall make those records available to the department for
23 inspection ~~upon~~ on request.

24 (k) personal property used in the manufacture of ammunition components as provided in [section
25 1].

26 (2) (a) The property taxes exempted from taxation by subsection (1)(j) are subject to termination or
27 recapture if the department determines that the owner failed to install and place in service new coaxial or fiber
28 cable in Montana as provided for in subsection (1)(j) or otherwise violates the provisions of this section.

(b) ~~Upon~~On notice from the department that the owner's exemption has terminated, any local governing body may recapture taxes previously exempted in that jurisdiction, plus interest and penalties for nonpayment of property taxes as provided in 15-16-102, during any tax year in which an exemption under the provisions of this section was improper. Any recapture must occur within 10 years after the end of the calendar year in which the exemption was first claimed.

(c) The recapture of abated taxes may be cancelled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer."

Section 5. Section 15-30-2120, MCA, is amended to read:

"15-30-2120. Adjustments to federal taxable income to determine Montana taxable income. (1)

The items in subsection (2) are added to and the items in subsection (3) are subtracted from federal taxable income to determine Montana taxable income.

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

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

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

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

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

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

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

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

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

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

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

(k) for a pass-through entity, estate, or trust, the amount of state income taxes deducted pursuant to section 164(a)(3) of the Internal Revenue Code, 26 U.S.C. 164(a)(3).

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

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

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

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

(ii) railroad retirement benefits;

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

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

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1 guard member pursuant to:

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

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

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

7 (iv) all payments made under the World War I bonus law, the Korean bonus law, and the veterans'
8 bonus law. Any income tax that has been or may be paid on income received from the World War I bonus law,
9 Korean bonus law, and the veterans' bonus law is considered an overpayment and must be refunded upon the
10 filing of an amended return and a verified claim for refund on forms prescribed by the department in the same
11 manner as other income tax refund claims are paid.

12 (d) annual contributions and income in a medical care savings account provided for in Title 15,
13 chapter 61, and any withdrawal for payment of eligible medical expenses or for the long-term care of the
14 employee or account holder or a dependent of the employee or account holder;

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

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

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

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

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

27 (j) the amount of any refund or credit for overpayment of income taxes imposed by this state or
28 any other taxing jurisdiction to the extent included in gross income for federal income tax purposes but not

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1 previously allowed as a deduction for Montana income tax purposes;

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

4 (l) the amount of the gain recognized from the sale or exchange of a mobile home park as
5 provided in 15-31-163;

6 (m) payments from the Montana end of watch trust as provided in 2-15-2041;

7 (n) (i) subject to subsection (9), a portion of military pensions or military retirement income as
8 calculated pursuant to subsection (8) that is received by a retired member of:

9 (A) the armed forces of the United States, as defined in 10 U.S.C. 101;

10 (B) the Montana army national guard or the army national guard of other states;

11 (C) the Montana air national guard or the air national guard of other states; or

12 (D) a reserve component, as defined in 38 U.S.C. 101, of the United States armed forces; and

13 (ii) subject to subsection (9), up to 50% of all income received as survivor benefits for military
14 service provided for in subsection (3)(n)(i)(A) through (3)(n)(i)(D); and

15 (o) the amount of the property tax rebate received under 15-1-2302; ;

16 (p) income received from the manufacture of ammunition components by an entity, owner, or
17 partner engaged in the primary business of the manufacture of ammunition components as provided in [section
18 1]; and

19 (q) income attributable to providing a bona fide loan in an arms' length transaction to a
20 manufacturer of ammunition components as provided in [section 2].

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

23 (i) by an amount for wages and salaries for which a federal tax credit was elected under sections
24 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
25 wages and salaries paid regardless of the credit taken; or

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

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

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

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

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

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

(7) By November 1 of each year, the department shall multiply the subtraction from federal taxable

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

(8) (a) Subject to subsection (9), the subtraction in subsection (3)(n)(i) is equal to the lesser of:

(i) the amount of Montana source wage income on the return; or

(ii) 50% of the taxpayer's military pension or military retirement income.

(b) For the purposes of subsection (8)(a)(i), "Montana source wage income" means:

(i) wages, salary, tips, and other compensation for services performed in the state;

(ii) net income from a trade, business, profession, or occupation carried on in the state; and

(iii) net income from farming activities carried on in the state.

(9) The subtractions in subsection (3)(n):

(a) may only be claimed by a person who:

(i) becomes a resident of the state after June 30, 2023; or

(ii) was a resident of the state before receiving military pension or military retirement income and remained a resident after receiving military pension or military retirement income;

(b) may only be claimed for 5 consecutive years after satisfying the provisions of subsection (9)(a);

and

(c) are not available if a taxpayer claimed the exemption before becoming a nonresident.

(Subsection (3)(o) terminates June 30, 2025--sec. 10, Ch. 47, L. 2023; subsections (3)(n), (8), and (9) terminate December 31, 2033--sec. 4, Ch. 650, L. 2023.)"

Section 6. Section 15-31-113, MCA, is amended to read:

"15-31-113. Gross income and net income. (1) The term "gross income" means all income recognized in determining the corporation's gross income for federal income tax purposes and:

(a) including:

(i) interest exempt from federal income tax and exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code of 1986, as that section may be amended or renumbered;

(ii) the portion of gain from a liquidation of the reporting corporation not recognized for federal

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corporate income tax purposes pursuant to sections 331 through 337 of the Internal Revenue Code, as those sections may be amended or renumbered, attributable to stockholders, either individual or corporate, not subject to Montana income or corporate income tax under Title 15, chapter 30 or chapter 31, as appropriate, on the gain passing through to the stockholders pursuant to federal law; and

(b) excluding:

(i) gain recognized for federal tax purposes as a shareholder of a liquidating corporation pursuant to sections 331 through 337 of the Internal Revenue Code, as those sections may be amended or renumbered, when the gain is required to be recognized by the liquidating corporation pursuant to subsection (1)(a)(ii) of this section;

(ii) income received by a corporation from the manufacture of ammunition components if the corporation is engaged in the primary business of the manufacture of ammunition components as provided in [section 1]; and

(iii) income received by a corporation that is attributable to providing a bona fide loan in an arms' length transaction to a manufacturer of ammunition components as provided in [section 2].

(2) The term "net income" means the gross income of the corporation less the deductions set forth in 15-31-114.

(3) A corporation is not exempt from the corporate income tax unless specifically provided for under 15-31-101(3) or 15-31-102. Any corporation not subject to or liable for federal income tax but not exempt from the corporate income tax under 15-31-101(3) or 15-31-102 shall compute gross income for corporate income tax purposes in the same manner as a corporation that is subject to or liable for federal income tax according to the provisions for determining gross income in the federal Internal Revenue Code in effect for the taxable year."

NEW SECTION. Section 7. Codification instruction. (1) [Sections 1 and 2] are intended to be codified as an integral part of Title 30, chapter 20, and the provisions of Title 30, chapter 20, apply to [sections 1 and 2].

(2) [Section 3] is intended to be codified as an integral part of Title 15, chapter 24, and the provisions of Title 15, chapter 24, apply to [section 3].

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NEW SECTION. **Section 8. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 9. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 10. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning on or after January 1, 2025.

NEW SECTION. **Section 11. Termination.** [This act] terminates December 31, 2030.

- END -