



Montana Legislative Services Division
Legal Services Office

September 18, 2009

TO: Revenue and Transportation Committee

FROM: Lee Heiman, Staff Attorney

SUBJECT: Past Legislative Proposals to Tie Montana Income Tax Liability to a Percentage
of Federal Tax Liability.

INTRODUCTION

This memorandum provides a brief overview of bills introduced in past sessions that would have changed the Montana individual income tax system to have tax liability determined as a percentage of the taxpayer's federal income tax liability. Two bills are summarized: SB 996, which was passed and vetoed in 1991, and SB 203, which died in committee in 2003.

PERCENTAGE OF FEDERAL TAX LIABILITY

Montana presently determines state income tax liability starting with the taxpayer's federal adjusted gross income. From that base certain items (that are not federally taxed) are added and certain items (that Montana does not tax, but the federal government does tax) are subtracted. From this amount exemptions (for people) are subtracted and either itemized or standard deductions (amounts Montana allows to be deducted from income) are subtracted. This results in Montana taxable income. The Montana taxable income is multiplied by percentages based upon income amounts to determine tax liability. From the dollar amount of tax liability, a taxpayer is allowed to subtract dollar amounts of credits (for capital gains, elderly care, etc.). The final result is the amount of taxes the taxpayer pays. The theory behind using a percentage of federal tax liability is to skip directly to the amount of taxes a taxpayer paid to the federal government and have the taxpayer pay the state a set percentage of that amount. If the taxpayer paid \$1,000 in federal taxes and the state rate is 25%, the taxpayer would pay the state \$250. Sometimes the amount is determined before reducing it for federal credits, which can include the earned income tax credit, a refundable tax credit. Montana tax credits can be subtracted from the determined tax liability. There is some income that under federal law or the U. S. Constitution cannot be taxed by a state government.

PREVIOUS BILLS

- 1985 -- HB 326, introduced by Rep. Hannah, died in committee
- 1987 -- SB 393, introduced by Sen. Eck, died in committee
- 1989 -- SB 459, introduced by Sen. Walker, died in committee
- 1991 -- HB 996, introduced by Rep. Ream, vetoed
- 1999 -- HB 655, introduced by Rep. Tropila, died in committee
- 2001 -- HB 197, introduced by Rep. Gallik, died in committee
- 2003 -- SB 338, introduced by Sen. Tropila, died in committee
- 2007 -- HB 772, introduced by Rep. Ken Peterson, died in committee

SENATE BILL NO. 996, 1991 SESSION, VETOED

Senate Bill No. 996, introduced by Rep. Ream, passed the House by 58 to 42 and the Senate by 26 to 24 on the final third reading vote. It was vetoed by Governor Stephens on April 19, 1991. A copy of the veto message is attached.

The bill provided that in determining "adjusted federal taxable income" (the amount used to compute the federal tax upon which the Montana tax would be determined), the following would be subtracted:

- income exempted from state taxation by federal law or the U. S. Constitution
- payment under veterans' bonus laws
- federal military pay received by active duty Montanans
- federal unemployment compensation
- tips

The percentage of the redetermined federal income tax liability was 30%.

SENATE BILL NO. 338, 2003 SESSION, DIED IN COMMITTEE

Senate Bill No. 338, introduced by Sen. Joe Tropila, died in committee. A copy of the fiscal note is attached.

The bill also required a redetermination of adjusted federal taxable income. It included the same five subtractions contained in SB 996, plus contributions to medial care savings accounts, family education savings accounts, and first-time home buyer savings accounts. The percentage of redetermined federal income tax was 26%.

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