

1 SENATE BILL NO. 77

2 INTRODUCED BY G. BRANAE

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE AMOUNT OF FEDERAL INCOME TAX PAID OR
6 ACCRUED THAT MAY BE CLAIMED AS A DEDUCTION BY ESTATES AND TRUSTS IN COMPUTING NET
7 INCOME; AMENDING SECTION 15-30-2152, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND
8 A RETROACTIVE APPLICABILITY DATE."

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

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12 **Section 1.** Section 15-30-2152, MCA, is amended to read:

13 **"15-30-2152. Computation of income of estates or trusts -- exemption.** (1) Except as otherwise
14 provided in this chapter, "gross income" of estates or trusts means all income from whatever source derived in
15 the tax year, including but not limited to the following items:

16 (a) dividends;

17 (b) interest received or accrued, including interest received on obligations of another state or territory
18 or a county, municipality, district, or other political subdivision of the state, but excluding interest income from
19 obligations of:

20 (i) the United States government or the state of Montana;

21 (ii) a school district; or

22 (iii) a county, municipality, district, or other political subdivision of the state;

23 (c) income from partnerships and other fiduciaries;

24 (d) gross rents and royalties;

25 (e) gain from sale or exchange of property, including those gains that are excluded from gross income
26 for federal fiduciary income tax purposes by section 641(c) of the Internal Revenue Code of 1954 (now deleted);

27 (f) gross profit from trade or business; and

28 (g) refunds recovered on federal income tax, to the extent that the deduction of the tax resulted in a
29 reduction of Montana income tax liability.

30 (2) In computing net income, there are allowed as deductions:

1 (a) interest expenses deductible for federal tax purposes according to section 163 of the Internal
2 Revenue Code, 26 U.S.C. 163;

3 (b) taxes paid or accrued within the tax year, including but not limited to federal income tax, but excluding
4 Montana income tax; however, the deduction for federal income taxes paid or accrued may not exceed the
5 amount allowed for a single taxpayer under 15-30-2131(1)(b);

6 (c) that fiduciary's portion of depreciation or depletion that is deductible for federal tax purposes
7 according to sections 167, 611, and 642 of the Internal Revenue Code, 26 U.S.C. 167, 611, and 642;

8 (d) charitable contributions that are deductible for federal tax purposes according to section 642(c) of
9 the Internal Revenue Code, 26 U.S.C. 642(c);

10 (e) administrative expenses claimed for federal income tax purposes, according to sections 212 and
11 642(g) of the Internal Revenue Code, 26 U.S.C. 212 and 642(g);

12 (f) losses from fire, storm, shipwreck, or other casualty or from theft, to the extent not compensated for
13 by insurance or otherwise, that are deductible for federal tax purposes according to section 165 of the Internal
14 Revenue Code, 26 U.S.C. 165;

15 (g) net operating loss deductions allowed for federal income tax under section 642(d) of the Internal
16 Revenue Code, 26 U.S.C. 642(d), except estates may not claim losses that are deductible on the decedent's final
17 return;

18 (h) Montana income tax refunds or tax refund credits.

19 (3) The following additional deductions are allowed in deriving taxable income of estates and trusts:

20 (a) any amount of income for the tax year currently required to be distributed to beneficiaries for the year;

21 (b) any other amounts properly paid or credited or required to be distributed for the tax year.

22 (4) The exemption allowed for estates and trusts is that exemption provided in 15-30-2114(2)(a) and (6)."

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24 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

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26 **NEW SECTION. Section 3. Retroactive applicability.** [This act] applies retroactively, within the
27 meaning of 1-2-109, to tax years beginning after December 31, 2010.

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