

SENATE BILL NO. 170

INTRODUCED BY DICK BARRETT

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A JOINT INCOME TAX RETURN OR A COMBINED
5 FILING SEPARATELY INCOME TAX RETURN WHEN A JOINT FEDERAL INDIVIDUAL INCOME TAX RETURN
6 IS FILED FOR THE SAME TAX YEAR; ELIMINATING MARRIAGE UNDER STATE LAW AS A PREREQUISITE
7 TO FILING A JOINT INCOME TAX RETURN; GENERALLY DELETING THE TERMS HUSBAND, WIFE,
8 MARRIED, AND SPOUSE FROM THE INDIVIDUAL INCOME TAX CODE; PROVIDING DEFINITIONS;
9 AMENDING SECTIONS 15-30-2101, 15-30-2110, 15-30-2113, 15-30-2114, 15-30-2131, 15-30-2132,
10 15-30-2342, 15-30-2364, 15-30-2366, 15-30-2387, 15-30-2389, 15-30-2390, 15-30-2392, 15-30-2512,
11 15-30-2602, 15-30-2618, 15-30-2632, 15-30-2646, 15-61-102, 15-62-207, 15-63-102, AND 15-63-202, MCA;
12 AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15

16 **Section 1.** Section 15-30-2101, MCA, is amended to read:

17 **"15-30-2101. Definitions.** For the purpose of this chapter, unless otherwise required by the context, the
18 following definitions apply:

19 (1) "Base year structure" means the following elements of the income tax structure:

20 (a) the tax brackets established in 15-30-2103, but unadjusted by 15-30-2103(2), in effect on June 30
21 of the taxable year;

22 (b) the exemptions contained in 15-30-2114, but unadjusted by 15-30-2114(6), in effect on June 30 of
23 the taxable year;

24 (c) the maximum standard deduction provided in 15-30-2132, but unadjusted by 15-30-2132(2), in effect
25 on June 30 of the taxable year.

26 (2) "Combined filing separately" means a state filing status for which an individual taxpayer and a
27 qualifying filer may elect to file separate Montana income tax returns for the same tax year by separating income
28 and liabilities between the taxpayer and the qualifying filer.

29 (3) "Combined joint" means a state filing status for which one Montana income tax return is made jointly
30 by an individual taxpayer and a qualifying filer for the same tax year.

1 ~~(2)~~(4) "Consumer price index" means the consumer price index, United States city average, for all items,
2 for all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor statistics
3 of the U.S. department of labor.

4 ~~(3)~~(5) "Corporation" or "C. corporation" means a corporation, limited liability company, or other entity:
5 (a) that is treated as an association for federal income tax purposes;
6 (b) for which a valid election under section 1362 of the Internal Revenue Code (26 U.S.C. 1362) is not
7 in effect; and
8 (c) that is not a disregarded entity.

9 ~~(4)~~(6) "Department" means the department of revenue.

10 ~~(5)~~(7) "Disregarded entity" means a business entity:

11 (a) that is disregarded as an entity separate from its owner for federal tax purposes, as provided in
12 United States treasury regulations 301.7701-2 or 301.7701-3, 26 CFR 301.7701-2 or 26 CFR 301.7701-3, or as
13 those regulations may be labeled or amended; or

14 (b) that is a qualified subchapter S. subsidiary that is not treated as a separate corporation, as provided
15 in section 1361(b)(3) of the Internal Revenue Code (26 U.S.C. 1361(b)(3)).

16 ~~(6)~~(8) "Dividend" means:

17 (a) any distribution made by a C. corporation out of its earnings and profits to its shareholders or
18 members, whether in cash or in other property or in stock of the corporation, other than stock dividends; and

19 (b) any distribution made by an S. corporation treated as a dividend for federal income tax purposes.

20 ~~(7)~~(9) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any
21 person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

22 ~~(8)~~(10) "Foreign C. corporation" means a corporation that is not engaged in or doing business in
23 Montana, as provided in 15-31-101.

24 ~~(9)~~(11) "Foreign government" means any jurisdiction other than the one embraced within the United
25 States, its territories, and its possessions.

26 ~~(10)~~(12) "Gross income" means the taxpayer's gross income for federal income tax purposes as defined
27 in section 61 of the Internal Revenue Code (26 U.S.C. 61) or as that section may be labeled or amended,
28 excluding unemployment compensation included in federal gross income under the provisions of section 85 of
29 the Internal Revenue Code (26 U.S.C. 85) as amended.

30 ~~(11)~~(13) "Inflation factor" means a number determined for each tax year by dividing the consumer price

1 index for June of the tax year by the consumer price index for June 2005.

2 ~~(12)~~(14) "Information agents" includes all individuals and entities acting in whatever capacity, including
3 lessees or mortgagors of real or personal property, fiduciaries, brokers, real estate brokers, employers, and all
4 officers and employees of the state or of any municipal corporation or political subdivision of the state, having the
5 control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities,
6 compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits,
7 and income with respect to which any person or fiduciary is taxable under this chapter.

8 ~~(13)~~(15) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, or as it may
9 be labeled or further amended. References to specific provisions of the Internal Revenue Code mean those
10 provisions as they may be otherwise labeled or further amended.

11 (16) "Joint federal return" means a federal filing status for which one federal income tax return is filed
12 together by two people reporting their aggregate income pursuant to the Internal Revenue Code.

13 ~~(14)~~(17) "Knowingly" is as defined in 45-2-101.

14 ~~(15)~~(18) "Limited liability company" means a limited liability company, domestic limited liability company,
15 or a foreign limited liability company as defined in 35-8-102.

16 ~~(16)~~(19) "Limited liability partnership" means a limited liability partnership as defined in 35-10-102.

17 ~~(17)~~(20) "Lottery winnings" means income paid either in lump sum or in periodic payments to:

- 18 (a) a resident taxpayer on a lottery ticket; or
19 (b) a nonresident taxpayer on a lottery ticket purchased in Montana.

20 ~~(18)~~(21) (a) "Montana source income" means:

21 (i) wages, salary, tips, and other compensation for services performed in the state or while a resident
22 of the state;

23 (ii) gain attributable to the sale or other transfer of tangible property located in the state, sold or otherwise
24 transferred while a resident of the state, or used or held in connection with a trade, business, or occupation
25 carried on in the state;

26 (iii) gain attributable to the sale or other transfer of intangible property received or accrued while a
27 resident of the state;

28 (iv) interest received or accrued while a resident of the state or from an installment sale of real property
29 or tangible commercial or business personal property located in the state;

30 (v) dividends received or accrued while a resident of the state;

- 1 (vi) net income or loss derived from a trade, business, profession, or occupation carried on in the state
2 or while a resident of the state;
- 3 (vii) net income or loss derived from farming activities carried on in the state or while a resident of the
4 state;
- 5 (viii) net rents from real property and tangible personal property located in the state or received or
6 accrued while a resident of the state;
- 7 (ix) net royalties from real property and from tangible real property to the extent the property is used in
8 the state or the net royalties are received or accrued while a resident of the state. The extent of use in the state
9 is determined by multiplying the royalties by a fraction, the numerator of which is the number of days of physical
10 location of the property in the state during the royalty period in the tax year and the denominator of which is the
11 number of days of physical location of the property everywhere during all royalty periods in the tax year. If the
12 physical location is unknown or unascertainable by the taxpayer, the property is considered used in the state in
13 which it was located at the time the person paying the royalty obtained possession.
- 14 (x) patent royalties to the extent the person paying them employs the patent in production, fabrication,
15 manufacturing, or other processing in the state, a patented product is produced in the state, or the royalties are
16 received or accrued while a resident of the state;
- 17 (xi) net copyright royalties to the extent printing or other publication originates in the state or the royalties
18 are received or accrued while a resident of the state;
- 19 (xii) partnership income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit:
20 (A) derived from a trade, business, occupation, or profession carried on in the state;
21 (B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of
22 property located in the state; or
23 (C) taken into account while a resident of the state;
- 24 (xiii) an S. corporation's separately and nonseparately stated income, gain, loss, deduction, or credit or
25 item of income, gain, loss, deduction, or credit:
26 (A) derived from a trade, business, occupation, or profession carried on in the state;
27 (B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of
28 property located in the state; or
29 (C) taken into account while a resident of the state;
- 30 (xiv) social security benefits received or accrued while a resident of the state;

1 (xv) taxable individual retirement account distributions, annuities, pensions, and other retirement benefits
2 received while a resident of the state;

3 (xvi) any other income attributable to the state, including but not limited to lottery winnings, state and
4 federal tax refunds, nonemployee compensation, recapture of tax benefits, and capital loss addbacks; and

5 (xvii) in the case of a nonresident who sells the nonresident's interest in a publicly traded partnership
6 doing business in Montana, the gain described in section 751 of the Internal Revenue Code, 26 U.S.C. 751,
7 multiplied by the Montana apportionment factor. If the net gain or loss resulting from the use of the apportionment
8 factor as provided in this subsection ~~(18)(a)(xviii)~~ (21)(a)(xvii) does not fairly and equitably represent the
9 nonresident taxpayer's business activity interest, then the nonresident taxpayer may petition for, or the
10 department may require with respect to any and all of the partnership interest, the employment of another method
11 to effectuate an equitable allocation or apportionment of the nonresident's income. This subsection ~~(18)(a)(xvii)~~
12 (21)(a)(xvii) is intended to preserve the rights and privileges of a nonresident taxpayer and align those rights with
13 taxpayers who are afforded the same rights under 15-1-601 and 15-31-312.

14 (b) The term does not include:

15 (i) compensation for military service of members of the armed services of the United States who are not
16 Montana residents and who are residing in Montana solely by reason of compliance with military orders and does
17 not include income derived from their personal property located in the state except with respect to personal
18 property used in or arising from a trade or business carried on in Montana; or

19 (ii) interest paid on loans held by out-of-state financial institutions recognized as such in the state of their
20 domicile, secured by mortgages, trust indentures, or other security interests on real or personal property located
21 in the state, if the loan is originated by a lender doing business in Montana and assigned out-of-state and there
22 is no activity conducted by the out-of-state lender in Montana except periodic inspection of the security.

23 ~~(19)(22)~~ "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by
24 this chapter.

25 ~~(20)(23)~~ "Nonresident" means a natural person who is not a resident.

26 ~~(21)(24)~~ "Paid", for the purposes of the deductions and credits under this chapter, means paid or accrued
27 or paid or incurred, and the terms "paid or accrued" and "paid or incurred" must be construed according to the
28 method of accounting upon the basis of which the taxable income is computed under this chapter.

29 ~~(22)(25)~~ "Partner" means a member of a partnership or a manager or member of any other entity, if
30 treated as a partner for federal income tax purposes.

1 ~~(23)~~(26) "Partnership" means a general or limited partnership, limited liability partnership, limited liability
2 company, or other entity, if treated as a partnership for federal income tax purposes.

3 ~~(24)~~(27) "Pass-through entity" means a partnership, an S. corporation, or a disregarded entity.

4 ~~(25)~~(28) "Pension and annuity income" means:

5 (a) systematic payments of a definitely determinable amount from a qualified pension plan, as that term
6 is used in section 401 of the Internal Revenue Code (26 U.S.C. 401), or systematic payments received as the
7 result of contributions made to a qualified pension plan that are paid to the recipient or recipient's beneficiary upon
8 the cessation of employment;

9 (b) payments received as the result of past service and cessation of employment in the uniformed
10 services of the United States;

11 (c) lump-sum distributions from pension or profit-sharing plans to the extent that the distributions are
12 included in federal adjusted gross income;

13 (d) distributions from individual retirement, deferred compensation, and self-employed retirement plans
14 recognized under sections 401 through 408 of the Internal Revenue Code (26 U.S.C. 401 through 408) to the
15 extent that the distributions are not considered to be premature distributions for federal income tax purposes; or

16 (e) amounts received from fully matured, privately purchased annuity contracts after cessation of regular
17 employment.

18 ~~(26)~~(29) "Purposely" is as defined in 45-2-101.

19 (30) "Qualifying filer" means the person who legally filed a joint federal return with the taxpayer.

20 ~~(27)~~(31) "Received", for the purpose of computation of taxable income under this chapter, means
21 received or accrued, and the term "received or accrued" must be construed according to the method of
22 accounting upon the basis of which the taxable income is computed under this chapter.

23 ~~(28)~~(32) "Resident" applies only to natural persons and includes, for the purpose of determining liability
24 to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the
25 state of Montana and any other person who maintains a permanent place of abode within the state even though
26 temporarily absent from the state and who has not established a residence elsewhere.

27 ~~(29)~~(33) "S. corporation" means an incorporated entity for which a valid election under section 1362 of
28 the Internal Revenue Code (26 U.S.C. 1362) is in effect.

29 ~~(30)~~(34) "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in
30 proportion to their previous holdings.

1 ~~(34)~~(35) "Tax year" means the taxpayer's taxable year for federal income tax purposes.

2 ~~(32)~~(36) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and
3 exemptions provided for in this chapter.

4 ~~(33)~~(37) "Taxpayer" includes any person, entity, or fiduciary, resident or nonresident, subject to a tax or
5 other obligation imposed by this chapter and unless otherwise specifically provided does not include a C.
6 corporation."

7

8 **Section 2.** Section 15-30-2110, MCA, is amended to read:

9 **"15-30-2110. Adjusted gross income.** (1) Subject to subsection (13), adjusted gross income is the
10 taxpayer's federal adjusted gross income as defined in section 62 of the Internal Revenue Code, 26 U.S.C. 62,
11 and in addition includes the following:

12 (a) (i) interest received on obligations of another state or territory or county, municipality, district, or other
13 political subdivision of another state, except to the extent that the interest is exempt from taxation by Montana
14 under federal law;

15 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C.
16 852(b)(5), that are attributable to the interest referred to in subsection (1)(a)(i);

17 (b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in a
18 reduction of Montana income tax liability;

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

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

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

24 (f) if the state taxable distribution of an estate or trust is greater than the federal taxable distribution of
25 the same estate or trust, the difference between the state taxable distribution and the federal taxable distribution
26 of the same estate or trust for the same tax period; and

27 (g) except for exempt-interest dividends described in subsection (2)(a)(ii), for tax years commencing after
28 December 31, 2002, the amount of any dividend to the extent that the dividend is not included in federal adjusted
29 gross income.

30 (2) Notwithstanding the provisions of the Internal Revenue Code, adjusted gross income does not

1 include the following, which are exempt from taxation under this chapter:

2 (a) (i) all interest income from obligations of the United States government, the state of Montana, or a
3 county, municipality, district, or other political subdivision of the state and any other interest income that is exempt
4 from taxation by Montana under federal law;

5 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, 26 U.S.C.
6 852(b)(5), that are attributable to the interest referred to in subsection (2)(a)(i);

7 (b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and including
8 \$800 for a taxpayer filing a separate return and \$1,600 for each combined joint return;

9 (c) (i) except as provided in subsection (2)(c)(ii), the first \$3,600 of all pension and annuity income
10 received as defined in 15-30-2101;

11 (ii) for pension and annuity income described under subsection (2)(c)(i), as follows:

12 (A) each taxpayer filing singly, head of household, or ~~married~~ combined filing separately shall reduce
13 the total amount of the exclusion provided in subsection (2)(c)(i) by \$2 for every \$1 of federal adjusted gross
14 income in excess of \$30,000 as shown on the taxpayer's return;

15 (B) in the case of ~~married~~ taxpayers filing ~~jointly~~ combined joint, if both taxpayers are receiving pension
16 or annuity income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as
17 provided in subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess
18 of \$30,000 as shown on their combined joint return;

19 (d) all Montana income tax refunds or tax refund credits;

20 (e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

21 (f) all tips or gratuities that are covered by section 3402(k) or service charges that are covered by section
22 3401 of the Internal Revenue Code of 1954, 26 U.S.C. 3402(k) or 3401, as amended and applicable on January
23 1, 1983, received by a person for services rendered to patrons of premises licensed to provide food, beverage,
24 or lodging;

25 (g) all benefits received under the workers' compensation laws;

26 (h) all health insurance premiums paid by an employer for an employee if attributed as income to the
27 employee under federal law, including premiums paid by the employer for an employee pursuant to 33-22-166;

28 (i) all money received because of a settlement agreement or judgment in a lawsuit brought against a
29 manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange";

30 (j) principal and income in a medical care savings account established in accordance with 15-61-201

1 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the taxpayer or a
2 dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the taxpayer;

3 (k) principal and income in a first-time home buyer savings account established in accordance with
4 15-63-201 or withdrawn from an account for eligible costs, as provided in 15-63-202(7), for the first-time purchase
5 of a single-family residence;

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

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

12 (n) if the federal taxable distribution of an estate or trust is greater than the state taxable distribution of
13 the same estate or trust, the difference between the federal taxable distribution and the state taxable distribution
14 of the same estate or trust for the same tax period;

15 (o) deposits, not exceeding the amount set forth in 15-30-3003, deposited in a Montana farm and ranch
16 risk management account, as provided in 15-30-3001 through 15-30-3005, in any tax year for which a deduction
17 is not provided for federal income tax purposes;

18 (p) income of a dependent child that is included in the taxpayer's federal adjusted gross income pursuant
19 to the Internal Revenue Code. The child is required to file a Montana personal income tax return if the child and
20 taxpayer meet the filing requirements in 15-30-2602.

21 (q) principal and income deposited in a health care expense trust account, as defined in 2-18-1303, or
22 withdrawn from the account for payment of qualified health care expenses as defined in 2-18-1303;

23 (r) that part of the refundable credit provided in 33-22-2006 that reduces Montana tax below zero; and

24 (s) the amount of the gain recognized from the sale or exchange of a mobile home park as provided in
25 15-31-163.

26 (3) A shareholder of a DISC that is exempt from the corporate income tax under 15-31-102(1)(l) shall
27 include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as
28 provided by section 995 of the Internal Revenue Code, 26 U.S.C. 995, for all periods for which the DISC election
29 is effective.

30 (4) A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's business

1 deductions by an amount for wages and salaries for which a federal tax credit was elected under sections 38 and
2 51(a) of the Internal Revenue Code, 26 U.S.C. 38 and 51(a), is allowed to deduct the amount of the wages and
3 salaries paid regardless of the credit taken. The deduction must be made in the year that the wages and salaries
4 were used to compute the credit. In the case of a partnership or small business corporation, the deduction must
5 be made to determine the amount of income or loss of the partnership or small business corporation.

6 (5) ~~Married taxpayers~~ Two individuals filing a joint federal return who are required to include part of their
7 social security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split
8 the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad
9 retirement benefits when they file separate Montana income tax returns. The federal base must be split equally
10 on the Montana return.

11 (6) ~~Married taxpayers~~ Two individuals filing a joint federal return who are allowed a capital loss deduction
12 under section 1211 of the Internal Revenue Code, 26 U.S.C. 1211, and who file ~~separate Montana income tax~~
13 ~~returns~~ combined filing separately may claim the same amount of the capital loss deduction that is allowed on
14 the federal return. If the allowable capital loss is clearly attributable to one ~~spouse~~ individual, the loss must be
15 shown on that ~~spouse's~~ individual's return; otherwise, the loss must be split equally on each return.

16 (7) In the case of passive and rental income losses, ~~married taxpayers~~ two individuals filing a joint federal
17 return and who file ~~separate Montana income tax returns~~ combined filing separately are not required to recompute
18 allowable passive losses according to the federal passive activity rules for ~~married joint federal~~ taxpayers filing
19 separately under section 469 of the Internal Revenue Code, 26 U.S.C. 469. If the allowable passive loss is clearly
20 attributable to one ~~spouse~~ individual, the loss must be shown on that ~~spouse's~~ individual's return; otherwise, the
21 loss must be split equally on each return.

22 (8) ~~Married taxpayers~~ Two individuals filing a joint federal return in which one or both of the taxpayers
23 are allowed a deduction for an individual retirement contribution under section 219 of the Internal Revenue Code,
24 26 U.S.C. 219, and who file ~~separate Montana income tax returns~~ combined filing separately may claim the same
25 amount of the deduction that is allowed on the federal return. The deduction must be attributed to the ~~spouse~~
26 taxpayer who made the contribution.

27 (9) (a) ~~Married taxpayers~~ Two individuals filing a joint federal return who are allowed a deduction for
28 interest paid for a qualified education loan under section 221 of the Internal Revenue Code, 26 U.S.C. 221, and
29 who file ~~separate Montana income tax returns~~ combined filing separately may claim the same amount of the
30 deduction that is allowed on the federal return. The deduction may be split equally on each return or in proportion

1 to each taxpayer's share of federal adjusted gross income.

2 (b) ~~Married taxpayers~~ Two individuals filing a joint federal return who are allowed a deduction for qualified
3 tuition and related expenses under section 222 of the Internal Revenue Code, 26 U.S.C. 222, and who file
4 ~~separate Montana income tax returns~~ combined filing separately may claim the same amount of the deduction
5 that is allowed on the federal return. The deduction may be split equally on each return or in proportion to each
6 taxpayer's share of federal adjusted gross income.

7 (10) A taxpayer receiving retirement disability benefits who has not attained 65 years of age by the end
8 of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross income
9 up to \$100 a week received as wages or payments in lieu of wages for a period during which the employee is
10 absent from work due to the disability. If the adjusted gross income before this exclusion exceeds \$15,000, the
11 excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the
12 taxpayer's eligibility for the exclusion. If eligible, ~~married individuals~~ individual taxpayers filing with qualifying filers
13 shall apply the exclusion separately, but the limitation for income exceeding \$15,000 is determined with respect
14 to ~~the spouses~~ both individuals on their combined adjusted gross income. For the purpose of this subsection,
15 "permanently and totally disabled" means unable to engage in any substantial gainful activity by reason of any
16 medically determined physical or mental impairment lasting or expected to last at least 12 months.

17 (11) (a) An individual who contributes to one or more accounts established under the Montana family
18 education savings program or to a qualified tuition program established and maintained by another state as
19 provided by section 529(b)(1)(A)(ii) of the Internal Revenue Code, 26 U.S.C. 529(b)(1)(A)(ii), may reduce adjusted
20 gross income by the lesser of \$3,000 or the amount of the contribution. In the case of ~~married taxpayers~~ filing with
21 qualifying filers, each ~~spouse~~ individual is entitled to a reduction, not in excess of \$3,000, for the ~~spouses'~~
22 individual's contributions to the accounts. ~~Spouses~~ The individuals may jointly elect to treat half of the total
23 contributions made by the ~~spouses~~ individuals as being made by each ~~spouse~~ individual. The reduction in
24 adjusted gross income under this subsection applies only with respect to contributions to an account of which the
25 account owner is the taxpayer, ~~the taxpayer's spouse~~ a qualifying filer, or the taxpayer's child or stepchild if the
26 taxpayer's child or stepchild is a Montana resident. The provisions of subsection (1)(e) do not apply with respect
27 to withdrawals of contributions that reduced adjusted gross income.

28 (b) Contributions made pursuant to this subsection (11) are subject to the recapture tax provided in
29 15-62-208.

30 (12) (a) A taxpayer may exclude the amount of the loan payment received pursuant to subsection

1 (12)(a)(iv), not to exceed \$5,000, from the taxpayer's adjusted gross income if the taxpayer:

2 (i) is a health care professional licensed in Montana as provided in Title 37;

3 (ii) is serving a significant portion of a designated geographic area, special population, or facility
4 population in a federally designated health professional shortage area, a medically underserved area or
5 population, or a federal nursing shortage county as determined by the secretary of health and human services
6 or by the governor;

7 (iii) has had a student loan incurred as a result of health-related education; and

8 (iv) has received a loan payment during the tax year made on the taxpayer's behalf by a loan repayment
9 program described in subsection (12)(b) as an incentive to practice in Montana.

10 (b) For the purposes of subsection (12)(a), a loan repayment program includes a federal, state, or
11 qualified private program. A qualified private loan repayment program includes a licensed health care facility, as
12 defined in 50-5-101, that makes student loan payments on behalf of the person who is employed by the facility
13 as a licensed health care professional.

14 (13) Notwithstanding the provisions of subsection (1), adjusted gross income does not include 40% of
15 capital gains on the sale or exchange of capital assets before December 31, 1986, as capital gains are
16 determined under subchapter P. of Chapter 1 of the Internal Revenue Code as it read on December 31, 1986.

17 (14) By November 1 of each year, the department shall multiply the amount of pension and annuity
18 income contained in subsection (2)(c)(i) and the federal adjusted gross income amounts in subsection (2)(c)(ii)
19 by the inflation factor for that tax year, but using the year 2009 consumer price index, and rounding the results
20 to the nearest \$10. The resulting amounts are effective for that tax year and must be used as the basis for the
21 exemption determined under subsection (2)(c). (Subsection (2)(f) terminates on occurrence of contingency--sec.
22 3, Ch. 634, L. 1983; subsection (2)(o) terminates on occurrence of contingency--sec. 9, Ch. 262, L. 2001.)"

23

24 **Section 3.** Section 15-30-2113, MCA, is amended to read:

25 **"15-30-2113. Determination of marital filing status.** For purposes of this chapter:

26 (1) the determination of whether an individual ~~is married~~ will file with a qualifying filer must be made as
27 of the close of the individual's tax year, except that if ~~the individual's spouse~~ a person that would normally be a
28 qualifying filer dies during the individual's tax year, the determination must be made as of the time of death; ~~and~~

29 (2) an individual legally separated from the individual's ~~spouse~~ previous qualifying filer under a decree
30 of divorce or of separate maintenance may not ~~be considered as married~~ file a combined joint return or combined

1 filing separately returns;

2 (3) individuals may not file combined joint or combined filing separately for any tax year that a joint
3 federal return was not filed; and

4 (4) except as provided in 15-30-2602 and this section, an individual shall file a combined joint return or
5 a combined filing separately return with the qualifying filer for any tax year that a joint federal return was filed."

6

7 **Section 4.** Section 15-30-2114, MCA, is amended to read:

8 **"15-30-2114. Exemptions -- inflation adjustment.** (1) Subject to subsection (6), an individual is allowed
9 as deductions in computing taxable income the exemptions provided by subsections (2) through (5).

10 (2) (a) An exemption of \$1,900 is allowed for all taxpayers.

11 (b) An additional exemption of \$1,900 is allowed for the spouse qualifying filer of the taxpayer if a
12 separate return is made by the taxpayer and if the spouse qualifying filer, for the calendar year in which the tax
13 year of the taxpayer begins, does not have gross income and is not the dependent of another taxpayer.

14 (3) (a) An additional exemption of \$1,900 is allowed for the taxpayer if the taxpayer has attained the age
15 of 65 before the close of the taxpayer's tax year.

16 (b) An additional exemption of \$1,900 is allowed for the spouse qualifying filer of the taxpayer if a
17 separate return is made by the taxpayer and if the spouse qualifying filer has attained the age of 65 before the
18 close of the tax year and, for the calendar year in which the tax year of the taxpayer begins, does not have gross
19 income and is not the dependent of another taxpayer.

20 (4) (a) An additional exemption of \$1,900 is allowed for the taxpayer if the taxpayer is blind at the close
21 of the taxpayer's tax year.

22 (b) An additional exemption of \$1,900 is allowed for the spouse qualifying filer of the taxpayer if a
23 separate return is made by the taxpayer and if the spouse qualifying filer is blind and, for the calendar year in
24 which the tax year of the taxpayer begins, does not have gross income and is not the dependent of another
25 taxpayer. For the purposes of this subsection (4)(b), the determination of whether the spouse qualifying filer is
26 blind must be made as of the close of the tax year of the taxpayer, except that if the spouse qualifying filer dies
27 during the tax year, the determination must be made as ~~of the time of death~~ provided in 15-30-2113.

28 (c) For purposes of this subsection (4), an individual is blind only if the person's central visual acuity does
29 not exceed 20/200 in the better eye with correcting lenses or if visual acuity is greater than 20/200 but is
30 accompanied by a limitation in the fields of vision to an extent that the widest diameter of the visual field subtends

1 an angle no greater than 20 degrees.

2 (5) (a) An exemption of \$1,900 is allowed for each dependent:

3 (i) whose gross income for the calendar year in which the tax year of the taxpayer begins is less than
4 or equal to the exemption amount provided in subsection (2)(a); or

5 (ii) who is a qualifying child as defined in section 152 of the Internal Revenue Code, 26 U.S.C. 152,
6 including a student as defined in that section.

7 (b) An exemption is not allowed under this subsection for a dependent who has made a combined joint
8 return with the dependent's ~~spouse~~ qualifying filer for the tax year beginning in the calendar year in which the tax
9 year of the taxpayer begins.

10 (6) The department, by November 1 of each year, shall multiply all the exemptions provided in this
11 section by the inflation factor for that tax year and round the product to the nearest \$10. The resulting adjusted
12 exemptions are effective for that tax year and must be used in calculating the tax imposed in 15-30-2103."

13

14 **Section 5.** Section 15-30-2131, MCA, is amended to read:

15 **"15-30-2131. Deductions allowed in computing net income.** (1) In computing net income, there are
16 allowed as deductions:

17 (a) the items referred to in sections 161, including the contributions referred to in 33-15-201(5)(b), and
18 211 of the Internal Revenue Code, 26 U.S.C. 161 and 211, subject to the following exceptions, which are not
19 deductible:

20 (i) items provided for in 15-30-2133;

21 (ii) state income tax paid;

22 (iii) premium payments for medical care as provided in subsection (1)(g)(i);

23 (iv) long-term care insurance premium payments as provided in subsection (1)(g)(ii); and

24 (v) a charitable contribution using a charitable gift annuity unless the annuity is a qualified charitable gift
25 annuity as defined in 33-20-701;

26 (b) federal income tax paid within the tax year, not to exceed \$5,000 for each taxpayer filing singly, head
27 of household, or ~~married~~ combined filing separately or \$10,000 if ~~married and filing jointly~~ filing combined joint;

28 (c) expenses of household and dependent care services as outlined in subsections (1)(c)(i) through
29 (1)(c)(iii) and (2) and subject to the limitations and rules as set out in subsections (1)(c)(iv) through (1)(c)(vi), as
30 follows:

- 1 (i) expenses for household and dependent care services necessary for gainful employment incurred for:
- 2 (A) a dependent under 15 years of age for whom an exemption can be claimed;
- 3 (B) a dependent as allowable under 15-30-2114(5), except that the limitations for age and gross income
- 4 do not apply, who is unable to provide self-care because of physical or mental illness; and
- 5 (C) ~~a spouse~~ an individual taxpayer's qualifying filer who is unable to provide self-care because of
- 6 physical or mental illness;
- 7 (ii) employment-related expenses incurred for the following services, but only if the expenses are incurred
- 8 to enable the taxpayer to be gainfully employed:
- 9 (A) household services that are attributable to the care of the qualifying individual; and
- 10 (B) care of an individual who qualifies under subsection (1)(c)(i);
- 11 (iii) expenses incurred in maintaining a household if over half of the cost of maintaining the household
- 12 is furnished by an individual or, ~~if the individual is married during the applicable period, is furnished by the~~ an
- 13 ~~individual and the individual's spouse~~ a qualifying filer;
- 14 (iv) the amounts deductible in subsections (1)(c)(i) through (1)(c)(iii), subject to the following limitations:
- 15 (A) a deduction is allowed under subsection (1)(c)(i) for employment-related expenses incurred during
- 16 the year only to the extent that the expenses do not exceed \$4,800;
- 17 (B) expenses for services in the household are deductible under subsection (1)(c)(i) for
- 18 employment-related expenses only if they are incurred for services in the taxpayer's household, except that
- 19 employment-related expenses incurred for services outside the taxpayer's household are deductible, but only if
- 20 incurred for the care of a qualifying individual described in subsection (1)(c)(i)(A) and only to the extent that the
- 21 expenses incurred during the year do not exceed:
- 22 (I) \$2,400 in the case of one qualifying individual;
- 23 (II) \$3,600 in the case of two qualifying individuals; and
- 24 (III) \$4,800 in the case of three or more qualifying individuals;
- 25 (v) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the tax year during
- 26 which the expenses are incurred, the amount of the employment-related expenses incurred, to be reduced by
- 27 one-half of the excess of the combined adjusted gross income over \$18,000;
- 28 (vi) for purposes of this subsection (1)(c):
- 29 (A) ~~married couples~~ an individual taxpayer filing with a qualifying filer shall file ~~a combined joint return~~
- 30 ~~or file combined filing~~ separately on the same form;

1 (B) if the taxpayer ~~is married~~ files with a qualifying filer during any period of the tax year,
2 employment-related expenses incurred are deductible only if:

3 (I) both ~~spouses~~ individuals are gainfully employed, in which case the expenses are deductible only to
4 the extent that they are a direct result of the employment; or

5 (II) the ~~spouse~~ qualifying filer is a qualifying individual described in subsection (1)(c)(i)(C);

6 (C) an individual legally separated from the ~~individual's spouse~~ previous qualifying filer under a decree
7 of divorce or of separate maintenance ~~may not be considered as married~~ is subject to the provisions of
8 15-30-2113;

9 (D) the deduction for employment-related expenses must be divided equally between the ~~spouses~~
10 taxpayer and the qualifying filer when filing combined filing separately on the same form;

11 (E) payment made to a child of the taxpayer who is under 19 years of age at the close of the tax year
12 and payments made to an individual with respect to whom a deduction is allowable under 15-30-2114(5) are not
13 deductible as employment-related expenses;

14 (d) in the case of an individual, political contributions determined in accordance with the provisions of
15 section 218(a) and (b) of the Internal Revenue Code of 1954 (now repealed) that were in effect for the tax year
16 that ended December 31, 1978;

17 (e) that portion of expenses for organic fertilizer and inorganic fertilizer produced as a byproduct allowed
18 as a deduction under 15-32-303 that was not otherwise deducted in computing taxable income;

19 (f) contributions to the child abuse and neglect prevention program provided for in 52-7-101, subject to
20 the conditions set forth in 15-30-2143;

21 (g) the entire amount of premium payments made by the taxpayer, except premiums deducted in
22 determining Montana adjusted gross income, or for which a credit was claimed under 15-30-2366, for:

23 (i) insurance for medical care, as defined in 26 U.S.C. 213(d), for coverage of the taxpayer, the
24 taxpayer's dependents, and the parents and grandparents of the taxpayer; and

25 (ii) long-term care insurance policies or certificates that provide coverage primarily for any qualified
26 long-term care services, as defined in 26 U.S.C. 7702B(c), for:

27 (A) the benefit of the taxpayer for tax years beginning after December 31, 1994; or

28 (B) the benefit of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the
29 taxpayer for tax years beginning after December 31, 1996;

30 (h) light vehicle registration fees, as provided for in 61-3-321(2) and 61-3-562, paid during the tax year;

1 and

2 (i) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-209,
3 81-7-118, or 81-7-201.

4 (2) (a) Subject to the conditions of subsection (1)(c), a taxpayer who operates a family day-care home
5 or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's own child
6 and at least one unrelated child in the ordinary course of business may deduct employment-related expenses
7 considered to have been paid for the care of the child.

8 (b) The amount of employment-related expenses considered to have been paid by the taxpayer is equal
9 to the amount that the taxpayer charges for the care of a child of the same age for the same number of hours of
10 care. The employment-related expenses apply regardless of whether any expenses actually have been paid.
11 Employment-related expenses may not exceed the amounts specified in subsection (1)(c)(iv)(B).

12 (c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the
13 deduction under this subsection (2)."

14

15 **Section 6.** Section 15-30-2132, MCA, is amended to read:

16 **"15-30-2132. Standard deduction.** (1) A standard deduction equal to 20% of adjusted gross income
17 is allowed if elected by the taxpayer on a return. The standard deduction is in lieu of all deductions allowed under
18 15-30-2131. The minimum standard deduction is \$1,580, as adjusted under the provisions of subsection (2), or
19 20% of adjusted gross income, whichever is greater, to a maximum standard deduction of \$3,560, as adjusted
20 under the provisions of subsection (2). However, in the case of a single combined joint return of husband and wife
21 or in the case of a single individual who qualifies to file as a head of household on the federal income tax return,
22 the minimum standard deduction is twice the amount of the minimum standard deduction for a single return, as
23 adjusted under the provisions of subsection (2), or 20% of adjusted gross income, whichever is greater, to a
24 maximum standard deduction of twice the amount of the maximum standard deduction for a single return, as
25 adjusted under the provisions of subsection (2). The In the case of an individual taxpayer filing with a qualifying
26 filer, the standard deduction may not be allowed to either the husband or the wife individual if the tax of one of
27 the spouses individuals is determined without regard to the standard deduction. For purposes of this section, the
28 determination of whether an individual is married must be made as of the last day of the tax year unless one of
29 the spouses dies during the tax year, in which case the determination must be made as of the date of death
30 taxpayer files with a qualifying filer is determined pursuant to 15-30-2113.

1 (2) By November 1 of each year, the department shall multiply both the minimum and the maximum
 2 standard deduction for single returns by the inflation factor for that tax year and round the product to the nearest
 3 \$10. The resulting adjusted deductions are effective for that tax year and must be used in calculating the tax
 4 imposed in 15-30-2103."

5

6 **Section 7.** Section 15-30-2342, MCA, is amended to read:

7 **"15-30-2342. Credit for preservation of historic buildings.** (1) There is allowed as a credit against
 8 the taxes imposed by 15-30-2103 a percentage of the credit allowed for qualified rehabilitation expenditures with
 9 respect to any certified historic building located in Montana as provided in 15-31-151.

10 (2) The credit may not be allocated between ~~spouses~~ an individual taxpayer and a qualifying filer unless
 11 the property is used by a small business corporation or a partnership in which they are shareholders or partners."

12

13 **Section 8.** Section 15-30-2364, MCA, is amended to read:

14 **"15-30-2364. Adoption tax credit -- limitations.** (1) There is allowed a tax credit against the tax
 15 imposed by 15-30-2103 or 15-30-2151 for the legal adoption of an eligible child for which the taxpayer qualifies
 16 for the credit for adoption expenses under section 23 of the Internal Revenue Code, 26 U.S.C. 23.

17 (2) The amount of the credit allowed under subsection (1) is equal to \$1,000 in the tax year the adoption
 18 is final. Only one credit is allowed for each eligible child. However, ~~married~~ taxpayers filing combined filing
 19 separately on the same form may allocate the credit between ~~spouses~~ the two individuals.

20 (3) To claim the credit under this section, the taxpayer shall:

21 (a) include the name, age, and federal tax identification number, if known, of the eligible child on the tax
 22 return; and

23 (b) provide other information as required by the department, including identification of an agent assisting
 24 with the adoption.

25 (4) The credit allowed by this section may not be refunded if the taxpayer has a tax liability less than the
 26 amount of the credit. If the sum of credit carryovers from the credit, if any, and the amount of credit allowed by
 27 this section for the tax year exceed the taxpayer's tax liability for the current tax year, the excess attributable to
 28 the current tax year's credit is a credit carryover to the 5 succeeding tax years. The entire amount of unused credit
 29 must be carried forward to the earliest of the succeeding years, and the oldest available unused credit must be
 30 used first."

1

2 **Section 9.** Section 15-30-2366, MCA, is amended to read:

3 **"15-30-2366. Credit for expense of caring for certain elderly family members.** (1) There is a credit
4 against the tax imposed by this chapter for qualified elderly care expenses paid by an individual for the care of
5 a qualifying family member during the taxable year.

6 (2) A qualifying family member is an individual who:

7 (a) is related to the taxpayer by blood or marriage;

8 (b) (i) is at least 65 years of age; or

9 (ii) has been determined to be disabled by the social security administration; and

10 (c) has a family income of \$15,000 or less for an ~~unmarried~~ individual that is permitted to file a single or
11 head of household return and \$30,000 or less for a ~~married individual~~ an individual that is permitted to file with
12 a qualifying filer for the taxable year.

13 (3) For purposes of this section, "family income" means, in the case of an individual who is ~~not married~~
14 permitted to file a single or head of household return, the gross income, including all nontaxable income, of the
15 individual or, in the case of a ~~married individual~~ an individual who is permitted to file with a qualifying filer, the
16 gross income, including all nontaxable income, of ~~the individual and the individual's spouse~~ both individuals.

17 (4) Qualified elderly care expenses include:

18 (a) payments by the taxpayer for home health agency services, personal-care attendant services and
19 care in a long-term care facility, as defined in 50-5-101, that is licensed by the department of public health and
20 human services, homemaker services, adult day care, respite care, or health care equipment and supplies:

21 (i) provided to the qualifying family member;

22 (ii) provided by an organization or individual not related to the taxpayer or the qualifying family member;

23 and

24 (iii) not compensated for by insurance or otherwise;

25 (b) premiums paid for long-term care insurance coverage for a qualifying family member.

26 (5) The percentage amount of credit allowable under this section is:

27 (a) for a taxpayer whose adjusted gross income does not exceed \$25,000, 30% of qualified elderly care
28 expenses; or

29 (b) for a taxpayer whose adjusted gross income exceeds \$25,000, the greater of:

30 (i) 20% of qualified elderly care expenses; or

1 (ii) 30% of qualified elderly care expenses, less 1% for each \$2,000 or fraction of \$2,000 by which the
2 adjusted gross income of the taxpayer for the taxable year exceeds \$25,000.

3 (6) The dollar amount of credit allowable under this section is:

4 (a) reduced by \$1 for each dollar of the adjusted gross income over \$50,000 for a taxpayer whose
5 adjusted gross income exceeds \$50,000;

6 (b) limited to \$5,000 per qualifying family member in a taxable year and to \$10,000 total for two or more
7 family members in a taxable year;

8 (c) prorated among multiple taxpayers who each contribute to qualified elderly care expenses of the
9 same qualified family member in a taxable year in the same proportion that their contributions bear to the total
10 qualified elderly care expenses paid by those taxpayers for that qualified family member.

11 (7) A deduction or credit is not allowed under any other provision of this chapter with respect to any
12 amount for which a credit is allowed under this section. The credit allowed under this section may not be claimed
13 as a carryback or carryforward and may not be refunded if the taxpayer has no tax liability.

14 (8) In the case of ~~a married~~ an individual filing ~~a separate return~~ combined filing separately, the
15 percentage amount of credit under subsection (5) and the dollar amount of credit under subsection (6) are limited
16 to one-half of the figures indicated in those subsections."

17

18 **Section 10.** Section 15-30-2387, MCA, is amended to read:

19 **"15-30-2387. (Temporary) Voluntary checkoff for nongame wildlife programs.** (1) Each individual
20 taxpayer who is required to file an income tax return under Title 15, chapter 30, may contribute to the funding of
21 nongame wildlife programs in Montana by marking the appropriate box on the state income tax return.

22 (2) The department shall include on each Montana state individual income tax return form a clear and
23 conspicuous provision by which the taxpayer may indicate a contribution to nongame wildlife programs. The
24 provision must be in substantially the following form:

25 Montana nongame wildlife funding. Check the appropriate blank if you wish to contribute, in addition to
26 your existing tax liability, ___ \$5, ___ \$10, or ___ (specify an amount) to fund nongame wildlife programs in
27 Montana. If a combined joint return, check the appropriate blank if your ~~spouse~~ qualifying filer wishes to
28 contribute, in addition to your existing tax liability, ___ \$5, ___ \$10, or ___ (specify an amount) for the same
29 purpose.

30 (3) Money received under this section, after the department has deducted the administrative charge

1 provided for in 15-30-2386, must be deposited in the nongame wildlife account established by 87-5-121.
 2 (Terminates on occurrence of contingency--secs. 1, 2, Ch. 321, L. 1999.)"

3

4 **Section 11.** Section 15-30-2389, MCA, is amended to read:

5 **"15-30-2389. Voluntary checkoff for agriculture literacy in Montana schools program.** (1) Each
 6 individual taxpayer who is required to file an income tax return under Title 15, chapter 30, may contribute to the
 7 funding of the agriculture literacy in Montana schools program by marking an appropriate box on the state income
 8 tax return.

9 (2) The department shall include on each Montana state individual income tax return form a clear and
 10 conspicuous provision by which the taxpayer may indicate a contribution to the agriculture literacy in Montana
 11 schools program. The contribution may be made from the amount to be refunded to the taxpayer or, if no refund
 12 is due, must be in addition to the amount of tax required to be paid. The provision must be in substantially the
 13 following form:

14 Check the appropriate blank if you wish to contribute ___ \$5, ___ \$10, ___ \$20, or ___ (specify an
 15 amount) of your tax refund, or add such amount to your tax payment, to fund the agriculture literacy in Montana
 16 schools program. If a combined joint return, check the appropriate blank if your ~~spouse~~ qualifying filer wishes to
 17 designate ___ \$5, ___ \$10, ___ \$20, or ___ (specify an amount) for the same purpose.

18 (3) Money received under this section must be deposited in the agriculture literacy in Montana schools
 19 program account established by 15-30-2388 after the department has deducted the amount necessary for the
 20 department to administer this section as provided in 15-30-2386."

21

22 **Section 12.** Section 15-30-2390, MCA, is amended to read:

23 **"15-30-2390. (Temporary) Voluntary checkoff for child abuse and neglect prevention program.**

24 (1) Each individual taxpayer who is required to file an income tax return under this chapter and who is entitled
 25 to a refund may contribute to the child abuse and neglect prevention program provided for in 52-7-101, by
 26 marking the appropriate box on the state income tax return.

27 (2) Each Montana state individual income tax return form must contain a provision for indicating a
 28 contribution to the child abuse and neglect prevention program in substantially the following form:

29 Child abuse and neglect prevention program. Check this box if you wish to designate \$5 ____, \$10 ____,
 30 or more ____ (indicate amount) of your tax refund to help fund the child abuse and neglect prevention program

1 in Montana. ~~On~~ If a combined joint return, check the ~~corresponding box for your spouse~~ appropriate blank if your
 2 ~~spouse~~ qualifying filer wishes to contribute \$5 ____, \$10 ____, or more ____ (indicate amount) of the refund for the
 3 same purpose.

4 (3) Money received under this section must be deposited in the children's trust fund account, created
 5 under 52-7-102, after the department has deducted the amount necessary for the department to administer this
 6 section as provided in 15-30-2386. (Terminates on occurrence of contingency--secs. 1, 2, Ch. 321, L. 1999.)"

7
 8 **Section 13.** Section 15-30-2392, MCA, is amended to read:

9 **"15-30-2392. Voluntary checkoff for Montana military relief fund.** (1) Each individual taxpayer who
 10 is required to file an income tax return under Title 15, chapter 30, may contribute to the Montana military family
 11 relief fund established in 10-1-1302 by marking the appropriate box on the state income tax return.

12 (2) The department shall include on each Montana state individual income tax return form a clear and
 13 conspicuous provision by which the taxpayer may indicate a contribution to the Montana military family relief fund.
 14 The contribution may be made from the amount to be refunded to the taxpayer or, if no refund is due, must be
 15 in addition to the amount of tax required to be paid. The provision must be in substantially the following form:

16 Montana military family relief fund. Check the appropriate blank if you wish to contribute, in addition to
 17 your existing tax liability, ___ \$5, ___ \$10, or ___ (specify an amount) to support the Montana military family relief
 18 fund. If a combined joint return, check the appropriate blank if your ~~spouse~~ qualifying filer wishes to contribute,
 19 in addition to your existing tax liability, ___ \$5, ___ \$10, or ___ (specify an amount) for the same purpose.

20 (3) Money received under this section must be deposited into the account established in 10-1-1303 after
 21 the department has deducted the administrative charge provided for in 15-30-2386."

22
 23 **Section 14.** Section 15-30-2512, MCA, is amended to read:

24 **"15-30-2512. Estimated tax -- payment -- exceptions -- interest.** (1) (a) Each individual subject to tax
 25 under this chapter, except farmers or ranchers as defined in subsection (6), shall pay for the tax year, through
 26 employer withholding, as provided in 15-30-2502, through payment of estimated tax in four installments, as
 27 provided in subsection (2) of this section, or through a combination of employer withholding and estimated tax
 28 payments, at least:

- 29 (i) 90% of the tax for the current tax year, less tax credits and withholding allowed the taxpayer; or
 30 (ii) an amount equal to 100% of the individual's tax liability for the preceding tax year, if the preceding tax

1 year was a period of 12 months and if the individual filed a return for the tax year.

2 (b) Payment of estimated taxes under this section is not required if:

3 (i) the combined tax liability of employer withholding and estimated tax for the current year is less than
 4 \$500 after reductions for credits and withholding;

5 (ii) the individual did not have any tax liability for the preceding tax year, which was a tax year of 12
 6 months, and if the individual was a citizen or resident of the United States throughout that tax year;

7 (iii) the underpayment was caused by reason of casualty, disaster, or other unusual circumstances that
 8 the department determines to constitute good cause; or

9 (iv) the individual retired in the tax year after having attained the age of 62 or if the individual became
 10 disabled in the tax year. In addition, payment of estimated taxes under this section is not required in the tax year
 11 following the tax year in which the individual retired or became disabled.

12 (2) Estimated taxes must be paid in four installments according to one of the following schedules:

13 (a) Subject to the due date provision in 15-30-2604(1)(b), for each taxpayer whose tax year begins on
 14 January 1, estimated tax payments are due on the following dates:

15 Installment	Date
16 First	April 15
17 Second	June 15
18 Third	September 15
19 Fourth	January 15 of the following tax year

20 (b) Subject to the due date provision in 15-30-2604(1)(b), for each taxpayer whose tax year begins on
 21 a date other than January 1, estimated tax payments are due on the following dates:

22 Installment	Date
23 First	15th day of the 4th month following the beginning of the tax year
24 Second	15th day of the 6th month following the beginning of the tax year
25 Third	15th day of the 9th month following the beginning of the tax year
26 Fourth	15th day of the month following the close of the tax year

27 (3) (a) Except as provided in subsection (4), each installment must be 25% of the required annual
 28 payment determined pursuant to subsection (1). If the taxpayer's tax situation changes, each succeeding
 29 installment must be proportionally changed so that the balance of the required annual payment is paid in equal
 30 installments over the remaining period of time.

1 (b) If the taxpayer's tax situation changes after the date for the first installment or any subsequent
 2 installment, as specified in subsection (2)(a) or (2)(b), so that the taxpayer is required to pay estimated taxes, the
 3 taxpayer shall pay 25% for each succeeding installment except for the first one in which a payment is required.
 4 For estimated taxes required to be paid beginning with the second installment provided for in subsection (2)(a)
 5 or (2)(b), the taxpayer shall pay 50% for that installment and 25% for the third and fourth installments,
 6 respectively. For estimated taxes required to be paid beginning with the third installment provided for in
 7 subsection (2)(a) or (2)(b), the taxpayer shall pay 75% for that installment and 25% for the fourth installment.

8 (4) (a) If for any required installment the taxpayer determines that the installment payment is less than
 9 the amount determined under subsection (3)(a), the lower amount may be paid as an annualized income
 10 installment.

11 (b) For any required installment, the annualized income installment is the applicable percentage
 12 described in subsection (4)(c) applied to the tax computed on the basis of annualized taxable income in the tax
 13 year for the months ending before the due date for the installment less the total amount of any prior required
 14 installments for the tax year.

15 (c) For the purposes of this subsection (4), the applicable percentage is determined according to the
 16 following schedule:

17 Required Installment	Applicable Percentage
18 First	22.5%
19 Second	45%
20 Third	67.5%
21 Fourth	90%

22 (d) A reduction in a required installment resulting from the application of an annualized income
 23 installment must be recaptured by increasing the amount of the next required installment, determined under
 24 subsection (3)(a), by the amount of the reduction. Any subsequent installment must be increased by the amount
 25 of the reduction until the amount has been recaptured.

26 (5) (a) If an estimated tax, an employer withholding tax, or a combination of estimated tax and employer
 27 withholding tax is underpaid, there must be added to the amount due under this chapter interest on the amount
 28 of the underpayment as provided in 15-1-216. The interest is computed on the amount of the underpayment, as
 29 determined in subsection (5)(b), for the period from the time the payment was due to the date payment was made
 30 or to the 15th day of the 4th month of the year following the tax year in which the payment was to be made,

1 whichever is earlier.

2 (b) For the purpose of determining the amount of interest due in subsection (5)(a), the amount of the
3 underpayment is the required installment amount less the installment amount paid, if any, on or before the due
4 date for the installment.

5 (c) For the purpose of determining the amount of interest due in subsection (5)(a), an estimated payment
6 must be credited against unpaid required installments in the order in which those installments are required to be
7 paid.

8 (d) For a ~~married~~ taxpayer filing combined filing separately on the same form, the interest provided for
9 in subsection (5)(a) must be computed on the combined tax liability after reductions for credits and withholding,
10 as shown on the taxpayer's return.

11 (e) Interest may not be charged with respect to any underpayment of the fourth installment of estimated
12 taxes if:

13 (i) the taxpayer pays in full the amount computed on the return as payable; and

14 (ii) the taxpayer files a return on or before the last day of the month following the close of the tax year
15 referred to in subsection (2)(a) or (2)(b).

16 (6) For the purposes of this section, "farmer or rancher" means a taxpayer who derives at least 66 2/3%
17 of the taxpayer's gross income, as defined in 15-30-2101, from farming or ranching operations, or both.

18 (7) The department shall promulgate rules governing reasonable extensions of time for paying the
19 estimated tax. An extension may not be for more than 6 months."
20

21 **Section 15.** Section 15-30-2602, MCA, is amended to read:

22 **"15-30-2602. Returns and payment of tax -- penalty and interest -- refunds -- credits -- inflation**
23 **adjustment.** (1) For both resident and nonresident taxpayers, each ~~single individual and each married individual~~
24 not filing a combined joint return ~~with a spouse~~ and having a gross income for the tax year of more than \$3,560,
25 as adjusted under the provisions of subsection (6), and ~~married individuals~~ each individual with a qualifying filer
26 not filing ~~separate returns~~ combined filing separately and having a combined gross income for the tax year of
27 more than \$7,120, as adjusted under the provisions of subsection (6), ~~are~~ is liable for a return to be filed on forms
28 and according to rules that the department may prescribe. The gross income amounts referred to in this
29 subsection (1) must be increased by \$1,900, as adjusted under the provisions of 15-30-2114(6), for each
30 additional personal exemption allowance that the taxpayer is entitled to claim for the taxpayer and the taxpayer's

1 ~~spouse~~ qualifying filer under 15-30-2114(3) and (4).

2 (2) In accordance with instructions set forth by the department, each taxpayer who is ~~married and~~ living
3 with a ~~husband or wife~~ qualifying filer and is required to file a return may, at the taxpayer's option, file a combined
4 joint return with the ~~husband or wife~~ qualifying filer even though one of the ~~spouses~~ individuals has neither gross
5 income nor deductions. If a combined joint return is made, the tax must be computed on the aggregate taxable
6 income and, subject to 15-30-2646, the liability with respect to the tax is joint and several. If a combined joint
7 return has been filed for a tax year, the ~~spouses~~ individuals may not file separate returns after the time for filing
8 the return of either has expired unless the department consents.

9 (3) If a taxpayer is unable to make the taxpayer's own return, the return must be made by an authorized
10 agent or by a guardian or other person charged with the care of the person or property of the taxpayer.

11 (4) All taxpayers, including but not limited to those subject to the provisions of 15-30-2502 and
12 15-30-2512, shall compute the amount of income tax payable and shall, on or before the date required by this
13 chapter for filing a return, pay to the department any balance of income tax remaining unpaid after crediting the
14 amount withheld, as provided by 15-30-2502, and any payment made by reason of an estimated tax return
15 provided for in 15-30-2512. However, the tax computed must be greater by \$1 than the amount withheld and paid
16 by estimated return as provided in this chapter. If the amount of tax withheld and the payment of estimated tax
17 exceed by more than \$1 the amount of income tax as computed, the taxpayer is entitled to a refund of the excess.

18 (5) If the department determines that the amount of tax due is greater than the amount of tax computed
19 by the taxpayer on the return, the department shall mail a notice to the taxpayer as provided in 15-30-2642 of the
20 additional tax proposed to be assessed, including penalty and interest as provided in 15-1-216.

21 (6) By November 1 of each year, the department shall multiply the minimum amount of gross income
22 necessitating the filing of a return by the inflation factor for the tax year. These adjusted amounts are effective
23 for that tax year, and persons who have gross incomes less than these adjusted amounts are not required to file
24 a return.

25 (7) Individual income tax forms distributed by the department for each tax year must contain instructions
26 and tables based on the adjusted base year structure for that tax year."

27

28 **Section 16.** Section 15-30-2618, MCA, is amended to read:

29 **"15-30-2618. Confidentiality of tax records.** (1) Except as provided in 5-12-303, 15-1-106, 17-7-111,
30 and subsections (8) and (9) of this section, in accordance with a proper judicial order, or as otherwise provided

1 by law, it is unlawful to divulge or make known in any manner:

2 (a) the amount of income or any particulars set forth or disclosed in any individual report or individual
3 return required under this chapter or any other information secured in the administration of this chapter; or

4 (b) any federal return or federal return information disclosed on any return or report required by rule of
5 the department or under this chapter.

6 (2) (a) The officers charged with the custody of the reports and returns may not be required to produce
7 them or evidence of anything contained in them in an action or proceeding in a court, except in an action or
8 proceeding:

9 (i) to which the department is a party under the provisions of this chapter or any other taxing act; or

10 (ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes
11 when the reports or facts shown by the reports are directly involved in the action or proceedings.

12 (b) The court may require the production of and may admit in evidence only as much of the reports or
13 of the facts shown by the reports as are pertinent to the action or proceedings.

14 (3) This section does not prohibit:

15 (a) the delivery to a taxpayer or the taxpayer's authorized representative of a certified copy of any return
16 or report filed in connection with the taxpayer's tax;

17 (b) the publication of statistics classified to prevent the identification of particular reports or returns and
18 the items of particular reports or returns; or

19 (c) the inspection by the attorney general or other legal representative of the state of the report or return
20 of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom
21 an action or proceeding has been instituted in accordance with the provisions of 15-30-2630.

22 (4) The department may deliver to a taxpayer's ~~spouse~~ qualifying filer the taxpayer's return or information
23 related to the return for a tax year if the ~~spouse~~ qualifying filer and the taxpayer filed the return with the filing
24 status of ~~married~~ combined filing separately on the same return. The information being provided to the ~~spouse~~
25 qualifying filer or reported on the return, including subsequent adjustments or amendments to the return, must
26 be treated in the same manner as if the ~~spouse~~ qualifying filer and the taxpayer filed the return using a combined
27 joint filing status for that tax year.

28 (5) Reports and returns must be preserved for at least 3 years and may be preserved until the
29 department orders them to be destroyed.

30 (6) Any offense against subsections (1) through (5) is punishable by a fine not exceeding \$500. If the

1 offender is an officer or employee of the state, the offender must be dismissed from office or employment and
2 may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in the
3 case of a former officer or employee, for 1 year after conviction.

4 (7) This section may not be construed to prohibit the department from providing taxpayer return
5 information and information from employers' payroll withholding reports to:

6 (a) the department of labor and industry to be used for the purpose of investigation and prevention of
7 noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; or

8 (b) the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud,
9 and abuse under the workers' compensation program.

10 (8) The department may permit the commissioner of internal revenue of the United States or the proper
11 officer of any state imposing a tax upon the incomes of individuals or the authorized representative of either officer
12 to inspect the return of income of any individual or may furnish to the officer or an authorized representative an
13 abstract of the return of income of any individual or supply the officer with information concerning an item of
14 income contained in a return or disclosed by the report of an investigation of the income or return of income of
15 an individual, but the permission may be granted or information furnished only if the statutes of the United States
16 or of the other state grant substantially similar privileges to the proper officer of this state charged with the
17 administration of this chapter.

18 (9) On written request to the director or a designee of the director, the department shall furnish:

19 (a) to the department of justice all information necessary to identify those persons qualifying for the
20 additional exemption for blindness pursuant to 15-30-2114(4), for the purpose of enabling the department of
21 justice to administer the provisions of 61-5-105;

22 (b) to the department of public health and human services information acquired under 15-30-2616,
23 pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public
24 assistance fraud and abuse, provided notice to the applicant has been given;

25 (c) to the department of labor and industry for the purpose of prevention and detection of fraud and
26 abuse in and eligibility for benefits under the unemployment compensation and workers' compensation programs
27 information on whether a taxpayer who is the subject of an ongoing investigation by the department of labor and
28 industry is an employee, an independent contractor, or self-employed;

29 (d) to the department of fish, wildlife, and parks specific information that is available from income tax
30 returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and

1 fishing licenses;

2 (e) to the board of regents information required under 20-26-1111;

3 (f) to the legislative fiscal analyst and the office of budget and program planning individual income tax
4 information as provided in 5-12-303, 15-1-106, and 17-7-111. The information provided to the office of budget
5 and program planning must be the same as the information provided to the legislative fiscal analyst.

6 (g) to the department of transportation farm income information based on the most recent income tax
7 return filed by an applicant applying for a refund under 15-70-223 or 15-70-362, provided that notice to the
8 applicant has been given as provided in 15-70-223 and 15-70-362. The information obtained by the department
9 of transportation is subject to the same restrictions on disclosure as are individual income tax returns.

10 (h) to the commissioner of insurance's office all information necessary for the administration of the small
11 business health insurance tax credit provided for in Title 33, chapter 22, part 20."

12

13 **Section 17.** Section 15-30-2632, MCA, is amended to read:

14 **"15-30-2632. Deferment of taxes for person in military service -- filing of return.** (1) The collection
15 of the tax imposed by 15-30-2103 from a person in the military service, as defined by section 511 of the
16 Servicemembers Civil Relief Act, 50 App. U.S.C. 511, as amended, whether due prior to or during the person's
17 period of military service, must be deferred for not more than 180 days after the termination of the person's period
18 of military service if the person's ability to pay the tax is materially impaired by reason of military service.

19 (2) Interest and penalty on any amount of tax that is deferred for any period under 15-30-2633 or this
20 section may not accrue for the period of deferment by reason of nonpayment. The running of any statute of
21 limitations against the payment of the tax by any lawful means must be suspended for the period of military
22 service of any person for whom the collection of the tax is deferred under this section and for an additional period
23 of 1 year beginning with the day following the period of military service.

24 (3) In accordance with the provisions of section 7508 of the Internal Revenue Code, 26 U.S.C. 7508, the
25 individual income tax return of a person serving in a combat zone or participating in a contingency operation and
26 of the person's ~~spouse~~ qualifying filer is due on or before 180 days after the time of disregarded service plus the
27 disregarded period of qualified hospitalization attributable to an injury suffered while serving in the combat zone
28 or contingency operation."

29

30 **Section 18.** Section 15-30-2646, MCA, is amended to read:

1 **"15-30-2646. Relief from joint and several liability on combined joint return -- limitations -- rules.**

2 (1) A taxpayer who has obtained relief from joint and several liability under section 6015 of the Internal Revenue
3 Code, 26 U.S.C. 6015, may apply to the department for relief from joint and several liability of the tax imposed
4 by this chapter. The taxpayer must have filed a Montana combined joint return for each of the tax years for which
5 relief is sought under this section.

6 (2) In applying for relief under this section, the taxpayer shall provide the department with the following:

7 (a) the tax years for which relief is sought;

8 (b) complete copies of all correspondence sent to and received from the internal revenue service;

9 (c) any court order stating that the taxpayer's ~~spouse~~ qualifying filer or former ~~spouse~~ qualifying filer is
10 responsible for paying the Montana individual income tax liability; and

11 (d) other information demonstrating that it would be unfair to hold the taxpayer responsible for the tax,
12 penalty, and interest.

13 (3) If the department determines, after consideration of the facts and circumstances presented by the
14 taxpayer, that it would be unfair to hold the taxpayer responsible for some or all of the tax, penalty, and interest,
15 the department shall grant the taxpayer relief from joint and several liability. The relief from joint and several
16 liability granted by the department:

17 (a) must be based on the same circumstances for which relief was granted the taxpayer by the internal
18 revenue service; and

19 (b) may not exceed the relief granted by the internal revenue service.

20 (4) The department shall adopt rules to implement and administer this section, including but not limited
21 to establishing procedures for applying for relief allowed under this section."

22

23 **Section 19.** Section 15-61-102, MCA, is amended to read:

24 **"15-61-102. Definitions.** As used in this chapter, unless it clearly appears otherwise, the following
25 definitions apply:

26 (1) "Account administrator" means:

27 (a) a state or federally chartered bank, savings and loan association, credit union, or trust company;

28 (b) a health care insurer as defined in 33-22-125;

29 (c) a certified public accountant licensed to practice in this state pursuant to Title 37, chapter 50;

30 (d) an employer if the employer has a self-insured health plan under ERISA;

- 1 (e) the account holder or an employee for whose benefit the account in question is established;
 2 (f) a broker, insurance producer, or investment adviser regulated by the commissioner of insurance;
 3 (g) an attorney licensed to practice law in this state;
 4 (h) a licensed public accountant or a person who is an enrolled agent allowed to practice before the
 5 United States internal revenue service.

6 (2) "Account holder" means an individual who is a resident of this state and who establishes a medical
 7 care savings account or for whose benefit the account is established.

8 (3) "Dependent" means the ~~spouse~~ qualifying filer, as defined in 15-30-2101, of the employee or account
 9 holder or a child of the employee or account holder if the child is:

10 (a) under 23 years of age and enrolled as a full-time student at an accredited college or university or is
 11 under 19 years of age;

12 (b) legally entitled to the provision of proper or necessary subsistence, education, medical care, or other
 13 care necessary for the health, guidance, or well-being of the child and is not otherwise emancipated,
 14 self-supporting, married, or a member of the armed forces of the United States; or

15 (c) mentally or physically incapacitated to the extent that the child is not self-sufficient.

16 (4) "Eligible medical expense" means an expense paid by the employee or account holder for medical
 17 care defined by 26 U.S.C. 213(d) for the employee or account holder or a dependent of the employee or account
 18 holder.

19 (5) "Employee" means an employed individual for whose benefit or for the benefit of whose dependents
 20 a medical care savings account is established. The term includes a self-employed individual.

21 (6) "ERISA" means the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq.

22 (7) "Medical care savings account" or "account" means an account established with an account
 23 administrator in this state pursuant to 15-61-201."

24

25 **Section 20.** Section 15-62-207, MCA, is amended to read:

26 **"15-62-207. Deductions for contributions.** An individual who contributes to one or more accounts in
 27 a tax year is entitled to reduce the individual's adjusted gross income, in accordance with 15-30-2110(11), by the
 28 total amount of the contributions, but not more than \$3,000. The contribution must be made to an account owned
 29 by the contributor, the contributor's ~~spouse~~ qualifying filer, as defined in 15-30-2101, or the contributor's child or
 30 stepchild if the contributor's child or stepchild is a Montana resident."

1

2 **Section 21.** Section 15-63-102, MCA, is amended to read:

3 **"15-63-102. Definitions.** As used in this chapter, unless the context requires otherwise, the following
4 definitions apply:

5 (1) "Account administrator" means:

6 (a) a state or federally chartered bank, savings and loan association, credit union, or trust company;

7 (b) a certified public accountant or a licensed public accountant licensed to practice in this state pursuant
8 to Title 37, chapter 50; or

9 (c) the account holder.

10 (2) "Account holder" means an individual who is a resident of this state and who establishes, individually
11 or jointly, a first-time home buyer savings account. The account holder must also be a first-time home buyer. A
12 ~~married taxpayer~~ qualifying filer, as defined in 15-30-2101, filing combined filing separately, as defined in
13 15-30-2101, may be an account holder if the account is established separately from the taxpayer's ~~spouse~~
14 qualifying filer. Married taxpayers Taxpayers filing jointly combined joint with qualifying filers are considered as
15 the account holder.

16 (3) "Eligible costs" means the downpayment and allowable closing costs for the purchase of a
17 single-family residence in Montana by a first-time home buyer.

18 (4) "First-time home buyer" means an individual who has never owned or purchased under contract for
19 deed, either individually or jointly, a single-family residence in Montana or out-of-state.

20 (5) "First-time home buyer savings account" or "account" means an account established with an account
21 administrator in this state pursuant to 15-63-201.

22 (6) "Single-family residence" means an owner-occupied residence in Montana, including a manufactured
23 home, trailer, or mobile home, that is an improvement to real property or a condominium unit that is owned by
24 or that has been purchased under contract for deed by a person, individually or jointly."
25

26 **Section 22.** Section 15-63-202, MCA, is amended to read:

27 **"15-63-202. Tax exemption -- conditions.** (1) Except as provided in this section, the amount of principal
28 provided for in subsection (2) contributed annually by an account holder to an account and all interest or other
29 income on the principal may be excluded from the adjusted gross income of the account holder and is exempt
30 from taxation, in accordance with 15-30-2110(2)(k), as long as the principal and interest or other income is

1 contained within the account or withdrawn only for eligible costs for the purchase of a single-family residence by
2 a first-time home buyer. Any part of the principal or income, or both, withdrawn from an account may not be
3 excluded under subsection (2) and this subsection if the amount is withdrawn from the account and used for a
4 purpose other than for eligible costs for the purchase of a single-family residence.

5 (2) (a) An account holder who files singly, head of household, or ~~married~~ combined filing separately, as
6 defined in 15-30-2101, may exclude as an annual contribution in 1 year up to \$3,000.

7 (b) An account holder who files ~~jointly~~ combined joint, as defined in 15-30-2101, may exclude as annual
8 contribution in 1 year up to \$6,000.

9 (c) There is no limitation on the amount of principal and interest or other income on the principal that may
10 be retained tax-free within an account.

11 (d) An account holder may not contribute to the first-time home buyer savings account for a period
12 exceeding 10 years.

13 (3) An account holder may not deduct pursuant to 15-30-2131 or exclude pursuant to 15-30-2110 an
14 amount representing a loss in the value of an investment contained in an account.

15 (4) Each year, an account holder may deposit into an account more than the amount excluded pursuant
16 to subsection (2) if the exemption claimed by the account holder in the year does not exceed the amount specified
17 in subsection (2)(a) or (2)(b). An account holder who deposits more than the amount specified in subsection (2)(a)
18 or (2)(b) into an account in a year may exclude from the account holder's adjusted gross income, in accordance
19 with 15-30-2110(2)(k), in a subsequent year any part of the amount specified in subsection (2)(a) or (2)(b) per
20 year not previously excluded.

21 (5) The transfer of money by a person other than the account holder to the account of an account holder
22 does not subject the account holder to tax liability under this section. Amounts contained within the account of
23 the receiving account holder are subject to the requirements and limitations provided in this section. The person
24 other than the account holder who transfers money to the account is not entitled to the tax exemption under this
25 section.

26 (6) The account holder who establishes the account, individually or jointly, is the owner of the account.
27 An account holder may withdraw money in an account and deposit the money in another account with a different
28 account administrator or with the same account administrator without incurring tax liability.

29 (7) The account holder shall use the money in the account for the eligible costs related to the purchase
30 of a single-family residence within 10 years following the year in which the account was established. Any principal

1 and income in the account not expended on eligible costs at the time of purchase of a single-family residence
2 or any principal or income remaining in the account on December 31 of the last year of the 10-year period must
3 be taxed as ordinary income.

4 (8) The amount of a disbursement of any assets of a first-time home buyer savings account pursuant
5 to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. 101 through 1330, by an account
6 holder does not subject the account holder to tax liability.

7 (9) Within 30 days of being furnished proof of the death of the account holder, the account administrator
8 shall distribute the principal and accumulated interest or other income in the account to the estate of the account
9 holder or to a designated pay-on-death beneficiary as provided in 72-6-223."

10
11 NEW SECTION. **Section 23. Severability.** If a part of [this act] is invalid, all valid parts that are
12 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
13 the part remains in effect in all valid applications that are severable from the invalid applications.

14
15 NEW SECTION. **Section 24. Effective date.** [This act] is effective January 1, 2016.

16
17 NEW SECTION. **Section 25. Applicability.** [This act] applies to tax years beginning after December
18 31, 2015.

19 - END -