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SENATE BILL NO. 121

INTRODUCED BY B. BEARD, L. JONES, G. HERTZ, D. ZOLNIKOV, W. MCKAMEY, J. TREBAS, J. ELLSWORTH, R. KNUDSEN, J. KASSMIER, B. MITCHELL, S. KERNS, Z. WIRTH

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING INDIVIDUAL INCOME TAX LAWS; REDUCING THE TOP MARGINAL INDIVIDUAL INCOME TAX RATE; INCREASING THE EARNED INCOME TAX CREDIT; AMENDING SECTIONS 15-30-2103 AND 15-30-2318, MCA; AND PROVIDING EFFECTIVE DATES, ~~AND AN~~ APPLICABILITY DATE, AND A TERMINATION DATE."

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

**Section 1.** Section 15-30-2103, MCA, is amended to read:

**"15-30-2103. (Temporary) Rate of tax.** (1) Except as provided in 15-30-3704 there must be levied, collected, and paid for each tax year upon the taxable income of each taxpayer subject to this tax, after making allowance for exemptions and deductions as provided in this chapter, a tax on the brackets of taxable income as follows:

- (a) on the first \$2,900 of taxable income or any part of that income, 1%;
- (b) on the next \$2,200 of taxable income or any part of that income, 2%;
- (c) on the next \$2,700 of taxable income or any part of that income, 3%;
- (d) on the next \$2,700 of taxable income or any part of that income, 4%;
- (e) on the next \$3,000 of taxable income or any part of that income, 5%;
- (f) on the next \$3,900 of taxable income or any part of that income, 6%;
- (g) on any taxable income in excess of \$17,400 or any part of that income, [6.75%].

(2) By November 1 of each year, the department shall multiply the bracket amount contained in subsection (1) by the inflation factor for the following tax year and round the cumulative brackets to the nearest \$100. The resulting adjusted brackets are effective for that following tax year and must be used as the basis for imposition of the tax in subsection (1) of this section. (Bracketed language is temporarily amended to "6.9%" on occurrence of contingency for income tax years 2022 and 2023 until December 31, 2023--secs. 8, 10, Ch. 488,

1 L. 2021--see compiler's comment.)

2 **15-30-2103. (Effective January 1, 2024) Rate of tax.** (1) Except as provided in 15-30-3704 and  
3 subsection (2) of this section, there must be levied, collected, and paid for each tax year upon the Montana  
4 taxable income of each taxpayer subject to this chapter a tax on the brackets of taxable income as follows:

5 (a) for every married individual who files a joint return and for every surviving spouse:

6 (i) on the first \$41,000 of Montana taxable income or any part of that income, 4.7%;

7 (ii) on any Montana taxable income in excess of \$41,000 or any part of that income, ~~6.5%~~ 5.9%;

8 (b) for every head of household:

9 (i) on the first \$30,750 of Montana taxable income or any part of that income, 4.7%;

10 (ii) on any Montana taxable income in excess of \$30,750 or any part of that income, ~~6.5%~~ 5.9%;

11 (c) for every individual other than a surviving spouse or head of household who is not a married  
12 individual:

13 (i) on the first \$20,500 of Montana taxable income or any part of that income, 4.7%;

14 (ii) on any Montana taxable income in excess of \$20,500 or any part of that income, ~~6.5%~~ 5.9%;

15 (d) for every married individual who does not make a joint return and for every estate or trust not  
16 exempt from taxation under the Internal Revenue Code:

17 (i) on the first \$20,500 of Montana taxable income or any part of that income, 4.7%;

18 (ii) on any Montana taxable income in excess of \$20,500 or any part of that income, ~~6.5%~~ 5.9%.

19 (2) By November 1 of each year, the department shall multiply the bracket amounts contained in  
20 subsection (1) by the inflation factor for the following tax year and round the cumulative brackets to the nearest  
21 \$100. The resulting adjusted brackets are effective for that following tax year and must be used as the basis for  
22 imposition of the tax in subsection (1)."

23

24 **Section 2.** Section 15-30-2318, MCA, is amended to read:

25 **"15-30-2318. Earned income tax credit.** (1) Except as provided in subsection (3), a resident  
26 taxpayer is allowed as a credit against the tax imposed by 15-30-2103 a percentage of the credit allowed for the  
27 federal earned income credit for which the individual taxpayer is eligible for the tax year under section 32 of the  
28 Internal Revenue Code, 26 U.S.C. 32.

1 (2) The amount of the credit allowed under subsection (1) is ~~3%~~ 10% of the amount of the credit  
2 determined for the tax year under section 32 of the Internal Revenue Code, 26 U.S.C. 32.

3 (3) (a) Except for married taxpayers living apart who are treated as single under section 7703(b) of  
4 the Internal Revenue Code, 26 U.S.C. 7703(b), the credit is not allowed to married taxpayers if the spouses  
5 report their income on separate tax forms. Married taxpayers filing separately on the same form may allocate  
6 the credit between spouses.

7 (b) The credit is not allowed on earned income that is treated as a dividend received by a member  
8 of an agricultural organization provided for in section 501(d) of the Internal Revenue Code, 26 U.S.C. 501(d).  
9 For the purpose of this subsection (3)(b), the amount of the state tax credit provided for in subsection (2) is  
10 reduced by the reduction percentage.

11 (4) The taxpayer is entitled to a refund equal to the amount by which the credit exceeds the  
12 taxpayer's tax liability or, if the taxpayer has no tax liability under this chapter, a refund equal to the amount of  
13 the credit. The credit may be claimed by filing a Montana income tax return.

14 (5) For the purpose of this section, the following definitions apply:

15 (a) "Earned income" means earned income, as defined in section 32 of the Internal Revenue  
16 Code, 26 U.S.C. 32, that was used to determine the amount of the federal earned income tax credit under  
17 subsection (2).

18 (b) "Reduction percentage" means a percentage that is calculated by dividing the earned income  
19 that is disallowed under subsection (3)(b) by the total amount of earned income."

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21 **NEW SECTION. Section 3. Effective dates.** (1) Except as provided in subsection (2), [this act] is  
22 effective on passage and approval.

23 (2) [Section 1] is effective January 1, 2024.  
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25 **NEW SECTION. Section 4. Applicability.** [This act] applies to income tax years beginning after  
26 December 31, 2023.  
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28 **NEW SECTION. Section 5. Termination.** [Sections 1 and 2] terminate December 31, 2029.

**Amendment - 1st Reading-white - Requested by: Mary Ann Dunwell - (S) Taxation**

- 2023

68th Legislature 2023

Drafter: Jaret Coles, 406-444-4022

SB0121.001.002

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- END -

AMEND