

1 HOUSE BILL NO. 122

2 INTRODUCED BY L. RANDALL

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROVISIONS RELATED TO WITHHOLDING OF TAX
6 FOR AGRICULTURAL LABOR; DEFINING "AGRICULTURAL LABOR"; AMENDING SECTION 15-30-2501,
7 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."
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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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11 **Section 1.** Section 15-30-2501, MCA, is amended to read:

12 **"15-30-2501. Definitions.** When used in 15-30-2501 through 15-30-2509, the following definitions apply:

13 (1) "Agricultural labor" means all services performed on a farm or ranch in connection with cultivating the
14 soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising,
15 shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and
16 wildlife.

17 (2) (a) "Employee" means:

18 (i) an individual who performs services for another individual or an organization having the right to control
19 the employee as to the services to be performed and as to the manner of performance;

20 (ii) an officer, employee, or elected public official of the United States, the state of Montana, or any
21 political subdivision of the United States or Montana or any agency or instrumentality of the United States, the
22 state of Montana, or a political subdivision of the United States or Montana;

23 (iii) an officer of a corporation;

24 (iv) all classes, grades, or types of employees including minors and aliens, superintendents, managers,
25 and other supervisory personnel.

26 (b) The term does not include a sole proprietor performing services for the sole proprietorship.

27 ~~(2)~~(3) "Employer" means:

28 (a) the person for whom an individual performs or performed any service, of whatever nature, as an
29 employee of the person or, if the person for whom the individual performs or performed the services does not
30 have control of the payment of wages for the services, the person having control of the payment of wages;

1 (b) any individual or organization that has or had in its employ one or more individuals performing
2 services for it within this state, including:

3 (i) a state government and any of its political subdivisions or instrumentalities;

4 (ii) a partnership, association, trust, estate, joint-stock company, insurance company, limited liability
5 company, or domestic or foreign corporation;

6 (iii) a receiver, trustee, including a trustee in bankruptcy, or the trustee's successor; or

7 (iv) a legal representative of a deceased person; or

8 (c) any person found to be an employer under Title 39, chapter 51, for unemployment insurance
9 purposes, or under Title 39, chapter 71, for workers' compensation purposes.

10 ~~(3)~~(4) "Lookback period" means the 12-month period ending the preceding June 30.

11 ~~(4)~~(5) "Sole proprietor" means an individual doing business in a noncorporate form and includes the
12 member of a single-member limited liability company that is a disregarded entity if the member is an individual.

13 ~~(5)~~(6) (a) Except as provided in subsection ~~(5)~~(b) ~~(6)~~(b), "wages" has the meaning provided in section
14 3401 of the Internal Revenue Code, 26 U.S.C. 3401.

15 (b) The term does not include:

16 (i) tips and gratuities exempt from taxation under 15-30-2110;

17 (ii) health insurance premiums attributed as income to an employee under federal law that are exempt
18 from taxation under 15-30-2110;

19 (iii) unemployment compensation, including supplemental unemployment compensation treated as wages
20 under section 3402 of the Internal Revenue Code, 26 U.S.C. 3402, that is excluded from gross income as
21 provided in 15-30-2101; or

22 (iv) any amount paid a sole proprietor; or

23 (v) any amount paid for agricultural labor."

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

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27 **NEW SECTION. Section 3. Retroactive applicability.** [This act] applies retroactively, within the
28 meaning of 1-2-109, to tax periods beginning after December 31, 2013.

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