



Revenue and Transportation Interim Committee

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61st Montana Legislature

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JEFF MARTIN, Research Analyst
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TO: Committee Members
FROM: Lee Heiman, Staff Attorney
RE: Administrative Rule Activity
DATE: November 13, 2009

Department of Revenue

All notices are available on the Internet at:

http://mt.gov/revenue/formsandresources/administrativerules/upcomingevents_proposedrulesnotices.asp

Notice of Proposed Rules:

Pass-Through Entities -- Composite Returns, Publicly Traded Partnership Reporting, Update of Forms and Internal References, and General Cleanup. MAR 42-2-809. A public hearing is to be held on November 18, 2009, at 1:00 p.m. in the Third Floor Reception Conference Room, Mitchell Building, Helena. Comment period closes November 30, 2009. The Department proposes to adopt one new rule and amend existing rules relating to income taxes. The proposal restricts net operating loss treatment to individual shareholders and partners for composite returns, information returns and withholding by disregarded entities with nonresident individual owners, publicly traded partnership reporting, clarifying the calculation of the composite tax, updating of forms and internal references, and general cleanup.

Liquor Licensees -- Beer Labels, Higher Alcohol Beer, Winery Sample Rooms, Responsible Servers, and General Cleanup. MAR 42-2-810. A public hearing is to be held on November 18, 2009, at 10:00 a.m. in the Third Floor Reception Conference Room, Mitchell Building, Helena. Comment period closes November 30, 2009. The Department proposes to adopt two new rules and amend existing rules relating to regulation of liquor licensees. The new rules address labels and brewing requirements for higher alcohol beer authorized by Ch. 197, L. 2009, and sample room and patio requirements for wineries. A responsible server program is established to provide for smaller penalties for scheduled offenses for trained responsible alcoholic beverage servers. Remaining rules are amended to correct form names, internal references, and other cleanup matters. Comment: The catchline for New Rule I, relating to beer labels, should be changed to include mention of the stronger beer brewing requirements. In New Rule I(3)(d), the reference to "by the privacy act" should be changed to refer to "as trade secrets under 30-14-402" or something similar. There is no privacy act that would protect brewers information in a public document.

Coal Severance Tax -- Contract Sales Price, Imputed Value, and Third-Party Intermediaries. MAR 42-2-811. A public hearing is to be held on November 18, 2009, at 3:00 p.m. in the Third Floor Reception Conference Room, Mitchell Building, Helena. Comment period closes November 30, 2009. The Department proposes to amend eight rules and repeal three rules relating to coal severance tax. The proposal is primarily to implement Ch. 433, L. 2009. The rules conform existing rules in three areas: use of contract sales price, determination of when and how the department may impute value of coal for the tax, and providing that sales to a third-party intermediary are not to be used for determining a contract sales price.

Withholding Taxes -- Minor Substantive Changes and General Cleanup. MAR 42-2-812. A public hearing is to be held on November 24, 2009, at 1:00 p.m. in the Third Floor Reception Conference Room, Mitchell Building, Helena. Comment period closes December 4, 2009. The Department proposes to amend 30 rules and repeal three rules relating to withholding taxes. The proposed rules concern primarily cleanup: change of form names, dates, internal references, grammar, and the like. The rules also change all cites to MCA sections found in Title 15, Ch. 30, due to the recodification of that chapter. The rules eliminate withholding by small mineral producers but require an annual report.

Annual Update of Market Value Trend Tables -- Farm and Construction Property in Purchase Incentive Rental Programs -- Property Reporting Requirements. MAR 42-2-813. A public hearing is to be held on November 24, 2009, at 3:00 p.m. in the Third Floor Reception Conference Room, Mitchell Building, Helena. Comment period closes December 4, 2009. The Department proposes to amend 16 rules for the annual update of trend tables used for determining market value of certain personal property for property tax purposes. The amendments include changes necessary to conform the rules to the farm implement and construction equipment property purchase incentive taxation rules that were enacted by Ch. 343, L. 2009. The Department is changing the date of the next taxpayer report of class eight property from 2010 to 2011.

Forest Lands. MAR 42-2-814. A public hearing is to be held on November 23, 2009, at 9:30 a.m. in the Third Floor Reception Conference Room, Mitchell Building, Helena. Comment period closes December 4, 2009. The Department proposes to amend six rules implementing changes to the valuation of forest lands for property tax purposes to implement changes made by the 2009 Legislature, to make changes from the method used for the last reappraisal cycle, and for cleanup and clarification. The rules change measurement of wood from cubic foot to board foot, clarify productivity and definition of forest land, change land valuation zones, incorporate the new fixed capitalization rate, and provide a new reappraisal phase-in schedule.

Agricultural Lands. MAR 42-2-815. A public hearing is to be held on November 23, 2009, at 8:30 a.m. in the Third Floor Reception Conference Room, Mitchell Building, Helena. Comment period closes December 4, 2009. The Department proposes to adopt three new rules and amend 14 rules. The changes are based upon recommendations of the Governor's Agricultural Land Valuation Advisory Committee, comments of the 2009 Select Subcommittee on Reappraisal,

conformance to practice, and cleanup. The rules change the older use of valuation schedules of graded land to specific soil and other criteria for each acre of land.

Property Tax Assistance Program -- Tax Exemption for Disabled Veterans. MAR 42-2-816. A public hearing is to be held on November 24, 2009, at 4:00 p.m. in the Third Floor Reception Conference Room, Mitchell Building, Helena. Comment period closes December 4, 2009. The Department proposes to amend two rules to implement the changes made by Ch. 6, and Ch. 483, L. 2009, to the property tax assistance program and the tax exemption for disabled veterans. The changes involve the application date change, now April 15, and the reportable income required for the property tax assistance program beginning for 2010.

9-1-1 Service Fee -- Prepaid Mobile Phone Providers. MAR 42-2-817. A public hearing is to be held on November 23, 2009, at 1:30 p.m. in the Third Floor Reception Conference Room, Mitchell Building, Helena. Comment period closes December 4, 2009. The Department proposes to adopt four new rules and amend one rule to implement the 9-1-1 telecommunications fee in regard to wireless telecommunications providers who provide prepaid services. The rules were developed through the negotiated rulemaking process. The telecommunications provider is to remit the fee to the department based upon sales to customers rather than being collected by a retailer at the point of sale of the prepayment. The negotiated rulemaking process was not unanimous. Section 10-4-201, MCA, reads, in part:

...

(2) The subscriber paying for exchange access line services is liable for the fees imposed by this section.

(3) The provider shall collect the fees. The amount of the fees collected by the provider is considered payment by the subscriber for that amount of fees.

...

Proposed rule I also defines a service provider irrespective of its mode of offering telecommunications services to include VOIP services as well as wireless and traditional services.

Notice of Adopted Rules:

None.

Department of Transportation

Notice of Proposed Rules:

None.

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None.