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# Montana Department of Revenue



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## Memorandum

To: Revenue and Transportation Interim Committee

From: Mike Kadas, Director 

Date: June 10, 2016

Subject: Agency Requested Legislation - Updated

The following is a list of legislative proposals that the department has identified.

### Require Withholding Annual Returns, W2s and 1099s to be Filed Earlier

As fraudulent filed returns are becoming more prevalent, a way to combat fraudulent tax filings is to review a taxpayer's wage information reported by their employer to the taxpayer's tax filings. Today this is done using employer's annual withholding returns, W2s and 1099s. Currently the due date for these returns February 28. This does not provide the department sufficient time to cross match reported income to verify legitimate returns from fraudulent returns. This proposal would change the filing date from February 28 to January 31. This has been implemented by the IRS and is being implemented by a number states.

### Change Partnership Due Dates to Match Federal Due Dates

Congress has changed the federal filing due date for partnership returns from April 15 to March 15. This proposal would change Montana's filing due date for partnership returns to match the federal due date in the interest of simplification to the filers. This change will help keep Montana's tax system in harmony with the federal tax system.

### Adopt the New Federal Regulations for Partnerships

Congress has adopted new provisions for partnerships effective beginning tax years 2018. The main provisions are: 1) partnerships will pay on audit adjustments to a return at a single rate or have the option to issue adjusted schedule Ks to the partners. 2) If the partnership has less than 100 partners that partnership may elect out of the new requirements in 1. 3) Partnerships in an appeal will be represented by a representative for

all partners instead of having an appeal proceeding for every partner. In general, this provision will follow the Federal provisions. In some areas the Federal provisions will need to be adjusted to accommodate state specific situations. These provisions will help partnerships when filing and complying with state and federal tax law.

#### Extend the Statute of Limitations for Certain Refunds

Under current law a situation can arise where a taxpayer's liability for a year is estimated. The individual may make a payment to ease the accrual of interest while also working to gather information to calculate the correct tax due. If the statute of limitations expires before the taxpayer has provided additional information which could create a refund, current law does not permit it. This is even the case if the taxpayer has responded responsibly and worked with the department to determine the correct tax. This change would permit reasonable refunds and is of higher importance because of the reduction of the individual statute of limitations from 5 years to 3.

#### Uniform Dispute Review Procedures

Under current statute, 15-30-2629(5), MCA, taxpayers are afforded the dispute review procedures granted under Title 2, chapter 4, the Montana Administrative Procedures Act (MAPA), when disputing the collection of delinquent income taxes through an offset against other funds. This act does not allow for an informal review process and limits the time to conduct a hearing to 20 days. Under the department's uniform dispute review procedures, 15-1-211, MCA, the timeframe for resolving disputes is within 180 days from when the dispute is initiated. By amending the statute to follow the dispute review procedures under 15-1-211, the department can engage in an informal review during the 180 days. The department currently has to follow two different appeals processes depending upon what is in dispute. This proposed legislation would align the dispute review procedures under 15-30-2629(5) with the department's uniform dispute review procedures in 15-1-211.

#### Informal Review Deadline for the Second Year of the Property Reappraisal Cycle

Under the current reappraisal statute there is no clear deadline as to when a property owner needs to appeal their assessment in the second year of the reappraisal cycle when the taxpayer does not receive an assessment notice the second year of the cycle. This proposal would establish a June 1 informal review deadline.

#### Amend the Definition of "necessarily" in Golf Course Valuation

This legislative proposal would amend the definition of "necessarily" as it is used in the valuation of golf courses. In the current statute, land and improvements that are actually and "necessarily" part of the operation of a golf course are taxed at one-half the tax rate of other commercial property. This can cause an equity issue between some non-golf course businesses that have similar operations that a golf course may have. For example, a supper club on a golf course competes to a similar supper club on main street but the

supper club on the golf course could be taxed at 50% less than the supper club on main street because the golf course discount applied. The original purpose of the discount was to account for improvements on golf courses that were closed most of the year. However, improvements such as steak houses and work out facilities are open year round but they are receiving the discount.

#### Unit Ownership Act Clarification and Property Ownership Language

This legislative proposal would clarify the process in moving townhomes to condominiums under the Unit Ownership Act for property assessment purposes. Additionally, this proposal provides language to allow ownership changes when land has been combined. Current law pertains to ownership changes only in instances of land splits.

#### Agricultural Implements and Machinery Appraisal Guides

The statute is specific as to the types of appraisal guides that the department must use. This legislative proposal seeks to remove the names of specific guides in statute to allow the department flexibility in seeking guides that provide the same or additional information for less cost.