

HOUSE BILL NO. 82

INTRODUCED BY T. FACEY, J. ELLINGSON, J. ELLIOTT

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING PHOTOVOLTAIC CELLS USED IN A COMMERCIAL SYSTEM OR A NET METERING SYSTEM FROM PROPERTY TAXATION; AMENDING SECTIONS 15-6-201 AND 15-32-405, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 15-6-201, MCA, is amended to read:

"15-6-201. (Temporary) Exempt categories. (1) The following categories of property are exempt from taxation:

(a) except as provided in 15-24-1203, the property of:

(i) the United States, except:

(A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or

(B) as provided in 15-24-1103;

(ii) the state, counties, cities, towns, and school districts;

(iii) irrigation districts organized under the laws of Montana and not operating for profit;

(iv) municipal corporations;

(v) public libraries; and

(vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

(b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings;

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.

1 (d) property that is:

2 (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

3 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care
4 and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

5 (iii) not maintained and operated for private or corporate profit;

6 (e) subject to subsection (2), property that is owned or property that is leased from a federal, state, or
7 local governmental entity by institutions of purely public charity if the property is directly used for purely public
8 charitable purposes;

9 (f) evidence of debt secured by mortgages of record upon real or personal property in the state of
10 Montana;

11 (g) public museums, art galleries, zoos, and observatories that are not used or held for private or
12 corporate profit;

13 (h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing
14 machines, and wearing apparel of members of the family, used by the owner for personal and domestic
15 purposes or for furnishing or equipping the family residence;

16 (i) truck canopy covers or toppers and campers;

17 (j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

18 (k) motor homes;

19 (l) all watercraft;

20 (m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or
21 nonprofit corporation organized to furnish potable water to its members or customers for uses other than the
22 irrigation of agricultural land;

23 (n) the right of entry that is a property right reserved in land or received by mesne conveyance
24 (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another
25 to explore, prospect, or dig for oil, gas, coal, or minerals;

26 (o) (i) property that is owned and used by a corporation or association organized and operated
27 exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with
28 physical or mental impairments that constitute or result in substantial impediments to employment and that is
29 not operated for gain or profit; and

30 (ii) property that is owned and used by an organization owning and operating facilities that are for the

1 care of the retired, aged, or chronically ill and that are not operated for gain or profit;

2 (p) all farm buildings with a market value of less than \$500 and all agricultural implements and
3 machinery with a market value of less than \$100;

4 (q) property owned by a nonprofit corporation that is organized to provide facilities primarily for training
5 and practice for or competition in international sports and athletic events and that is not held or used for private
6 or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization
7 that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted
8 under the Montana Nonprofit Corporation Act.

9 (r) (i) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily
10 hand-held and that are used to:

11 (A) construct, repair, and maintain improvements to real property; or

12 (B) repair and maintain machinery, equipment, appliances, or other personal property;

13 (ii) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture,
14 launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and
15 launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and
16 that are directly used for space vehicle design, manufacture, launch, repair, and maintenance;

17 (s) harness, saddlery, and other tack equipment;

18 (t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in
19 33-25-105;

20 (u) timber as defined in 15-44-102;

21 (v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined in
22 61-1-114, and travel trailers as defined in 61-1-131;

23 (w) all vehicles registered under 61-3-456;

24 (x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors,
25 including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and

26 (ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection
27 (1)(x)(i);

28 (y) motorcycles and quadricycles;

29 (z) ~~the following percentage~~ 31% of the market value of residential property as described in
30 15-6-134(1)(e) and (1)(f):

- 1 ~~—— (i) 23% for tax year 2000;~~
2 ~~—— (ii) 27.5% for tax year 2001; and~~
3 ~~—— (iii) 31% for tax year 2002 and succeeding tax years;~~
4 (aa) ~~the following percentage~~ 13% of the market value of commercial property as described in
5 15-6-134(1)(g):
6 ~~—— (i) 9% for tax year 2000;~~
7 ~~—— (ii) 11% for tax year 2001; and~~
8 ~~—— (iii) 13% for tax year 2002 and succeeding tax years;~~
9 (bb) personal property used by an industrial dairy or an industrial milk processor and dairy livestock used
10 by an industrial dairy;
11 (cc) items of personal property intended for rent or lease in the ordinary course of business if each item
12 of personal property satisfies all of the following:
13 (i) the acquired cost of the personal property is less than \$15,000;
14 (ii) the personal property is owned by a business whose primary business income is from rental or lease
15 of personal property to individuals and no one customer of the business accounts for more than 10% of the total
16 rentals or leases during a calendar year; and
17 (iii) the lease of the personal property is generally on an hourly, daily, or weekly basis;
18 (dd) all manufacturing machinery, fixtures, equipment, and tools used for the production of ethanol from
19 grain during the course of the construction of an ethanol manufacturing facility and for 10 years after completion
20 of construction of the manufacturing facility; ~~and~~
21 (ee) light vehicles as defined in 61-1-139; and
22 (ff) photovoltaic cells that are used in a commercial system or a net metering system, as defined in
23 69-8-103.
24 (2) (a) For the purposes of subsection (1)(e):
25 (i) the term "institutions of purely public charity" includes any organization that meets the following
26 requirements:
27 (A) The organization offers its charitable goods or services to persons without regard to race, religion,
28 creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal
29 Revenue Code, as amended.
30 (B) The organization accomplishes its activities through absolute gratuity or grants. However, the

1 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public
2 performances or entertainment or by other similar types of fundraising activities.

3 (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used
4 by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal
5 Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually
6 with the department a copy of its federal tax return reporting any unrelated business taxable income received
7 by the charity during the tax year, together with a statement indicating whether the exempt property was used
8 to generate any unrelated business taxable income.

9 (b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and
10 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold
11 property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes
12 all real and personal property reasonably necessary for use in connection with the public display or observatory
13 use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual
14 or for-profit organization, real and personal property owned by other persons is exempt if it is:

15 (i) actually used by the governmental entity or nonprofit organization as a part of its public display;

16 (ii) held for future display; or

17 (iii) used to house or store a public display.

18 (3) For the purposes of subsection (1)(bb):

19 (a) "industrial dairy" means a large-scale dairy operation with 1,000 or more milking cows and includes
20 the dairy livestock and integral machinery and equipment that the dairy uses to produce milk and milk products
21 solely for export from the state, either directly by the dairy or after the milk or milk product has been further
22 processed by an industrial milk processor. After export, any unprocessed milk must be further processed into
23 other dairy products.

24 (b) "industrial milk processor" means a facility and integral machinery used solely to process milk into
25 milk products for export from the state.

26 (4) ~~The~~ Except as provided in subsection (1)(ff), the following portions of the appraised value of a capital
27 investment in a recognized nonfossil form of energy generation or low emission wood or biomass combustion
28 devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the
29 property:

30 (a) \$20,000 in the case of a single-family residential dwelling;

(b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure.

15-6-201. (Effective on occurrence of contingency) Exempt categories. (1) The following categories of property are exempt from taxation:

(a) except as provided in 15-24-1203, the property of:

(i) the United States, except:

(A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or

(B) as provided in 15-24-1103;

(ii) the state, counties, cities, towns, and school districts;

(iii) irrigation districts organized under the laws of Montana and not operating for profit;

(iv) municipal corporations;

(v) public libraries; and

(vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

(b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings;

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.

(d) property that is:

(i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

(ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

(iii) not maintained and operated for private or corporate profit;

(e) subject to subsection (2), property that is owned or property that is leased from a federal, state, or local governmental entity by institutions of purely public charity if the property is directly used for purely public charitable purposes;

(f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;

1 (g) public museums, art galleries, zoos, and observatories that are not used or held for private or
2 corporate profit;

3 (h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing
4 machines, and wearing apparel of members of the family, used by the owner for personal and domestic
5 purposes or for furnishing or equipping the family residence;

6 (i) truck canopy covers or toppers and campers;

7 (j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

8 (k) motor homes;

9 (l) all watercraft;

10 (m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or
11 nonprofit corporation organized to furnish potable water to its members or customers for uses other than the
12 irrigation of agricultural land;

13 (n) the right of entry that is a property right reserved in land or received by mesne conveyance
14 (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another
15 to explore, prospect, or dig for oil, gas, coal, or minerals;

16 (o) (i) property that is owned and used by a corporation or association organized and operated
17 exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with
18 physical or mental impairments that constitute or result in substantial impediments to employment and that is
19 not operated for gain or profit; and

20 (ii) property that is owned and used by an organization owning and operating facilities that are for the
21 care of the retired, aged, or chronically ill and that are not operated for gain or profit;

22 (p) all farm buildings with a market value of less than \$500 and all agricultural implements and
23 machinery with a market value of less than \$100;

24 (q) property owned by a nonprofit corporation that is organized to provide facilities primarily for training
25 and practice for or competition in international sports and athletic events and that is not held or used for private
26 or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization
27 that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted
28 under the Montana Nonprofit Corporation Act.

29 (r) (i) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily
30 hand-held and that are used to:

1 (A) construct, repair, and maintain improvements to real property; or

2 (B) repair and maintain machinery, equipment, appliances, or other personal property;

3 (ii) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture,
4 launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and
5 launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and
6 that are directly used for space vehicle design, manufacture, launch, repair, and maintenance;

7 (s) harness, saddlery, and other tack equipment;

8 (t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in
9 33-25-105;

10 (u) timber as defined in 15-44-102;

11 (v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined in
12 61-1-114, and travel trailers as defined in 61-1-131;

13 (w) all vehicles registered under 61-3-456;

14 (x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors,
15 including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and

16 (ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection
17 (1)(x)(i);

18 (y) motorcycles and quadricycles;

19 (z) ~~the following percentage~~ 31% of the market value of residential property as described in
20 15-6-134(1)(e) and (1)(f):

21 ~~(i) 23% for tax year 2000;~~

22 ~~—— (ii) 27.5% for tax year 2001; and~~

23 ~~—— (iii) 31% for tax year 2002 and succeeding tax years;~~

24 (aa) ~~the following percentage~~ 13% of the market value of commercial property as described in
25 15-6-134(1)(g):

26 ~~—— (i) 9% for tax year 2000;~~

27 ~~—— (ii) 11% for tax year 2001; and~~

28 ~~—— (iii) 13% for tax year 2002 and succeeding tax years;~~

29 (bb) personal property used by an industrial dairy or an industrial milk processor and dairy livestock used
30 by an industrial dairy;

(cc) items of personal property intended for rent or lease in the ordinary course of business if each item of personal property satisfies all of the following:

(i) the acquired cost of the personal property is less than \$15,000;

(ii) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals and no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and

(iii) the lease of the personal property is generally on an hourly, daily, or weekly basis;

(dd) all agricultural implements and equipment;

(ee) all mining machinery, fixtures, equipment, tools, and supplies except those included in class five;

(ff) all manufacturing machinery, fixtures, equipment, tools, and supplies except those included in class five;

(gg) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class;

(hh) special mobile equipment as defined in 61-1-104;

(ii) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;

(jj) x-ray and medical and dental equipment;

(kk) citizens' band radios and mobile telephones;

(ll) radio and television broadcasting and transmitting equipment;

(mm) cable television systems;

(nn) coal and ore haulers;

(oo) theater projectors and sound equipment; ~~and~~

(pp) light vehicles as defined in 61-1-139; and

(qq) photovoltaic cells that are used in a commercial system or a net metering system, as defined in 69-8-103.

(2) (a) For the purposes of subsection (1)(e):

(i) the term "institutions of purely public charity" includes any organization that meets the following requirements:

(A) The organization offers its charitable goods or services to persons without regard to race, religion, creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal

1 Revenue Code, as amended.

2 (B) The organization accomplishes its activities through absolute gratuity or grants. However, the
3 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public
4 performances or entertainment or by other similar types of fundraising activities.

5 (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used
6 by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal
7 Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually
8 with the department a copy of its federal tax return reporting any unrelated business taxable income received
9 by the charity during the tax year, together with a statement indicating whether the exempt property was used
10 to generate any unrelated business taxable income.

11 (b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and
12 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold
13 property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes
14 all real and personal property reasonably necessary for use in connection with the public display or observatory
15 use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual
16 or for-profit organization, real and personal property owned by other persons is exempt if it is:

17 (i) actually used by the governmental entity or nonprofit organization as a part of its public display;

18 (ii) held for future display; or

19 (iii) used to house or store a public display.

20 (3) For the purposes of subsection (1)(bb):

21 (a) "industrial dairy" means a large-scale dairy operation with 1,000 or more milking cows and includes
22 the dairy livestock and integral machinery and equipment that the dairy uses to produce milk and milk products
23 solely for export from the state, either directly by the dairy or after the milk or milk product has been further
24 processed by an industrial milk processor. After export, any unprocessed milk must be further processed into
25 other dairy products.

26 (b) "industrial milk processor" means a facility and integral machinery used solely to process milk into
27 milk products for export from the state.

28 (4) ~~The~~ Except as provided in subsection (1)(qq), the following portions of the appraised value of a
29 capital investment in a recognized nonfossil form of energy generation or low emission wood or biomass
30 combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following

1 installation of the property:

2 (a) \$20,000 in the case of a single-family residential dwelling;

3 (b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

4
5 **Section 2.** Section 15-32-405, MCA, is amended to read:

6 **"15-32-405. Exclusion from other tax incentives.** If a credit is claimed for an investment pursuant to
7 this part, no other state energy or investment tax credit, including but not limited to the tax credits allowed by
8 15-30-162 and 15-31-123 through 15-31-125, may be claimed for the investment. Property tax ~~reduction~~
9 reductions allowed by 15-6-201(3)(1)(ff), (1)(qq), effective on the occurrence of the contingency specified in
10 section 31(4), Chapter 285, Laws of 1999, or (4) may not be applied to a facility for which a credit is claimed
11 pursuant to this part."

12
13 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

14
15 NEW SECTION. **Section 4. Retroactive applicability.** [This act] applies retroactively, within the
16 meaning of 1-2-109, to photovoltaic cells installed after December 31, 2002.

17 - END -