Montana Department of
REVENUE
... meeting the challenge

House Bill 158

Revise & Clarify Income Tax Withholding

Department of Revenue Testimony

Senate Taxation Committee

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SENATE TAXATION
EXHIBIT NO. 2
DATE 2-10-05
BILL NO. HB 158

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Background – HB158

- HB158 is a follow-up bill to SB271 that was passed in the 2003 Legislative session that required the transfer of Unemployment Insurance Tax (UI) functions from the Department of Revenue (DOR) to the Department of Labor and Industry (DLI).
- UI functions were transferred to DLI on July 1, 2004 with little or no impact to Montana employers.

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HB158 Provisions

- HB158 removes references to Unemployment Insurance in Title 15
- Returns the administration of Withholding Tax (WH) to the same way it was before WH and UI functions were combined on a single tax form.
- Streamlines the reporting requirements for Montana employers and reduces the administrative functions for DOR by requiring only an annual reconciliation of WH payments.

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HB 158 - Section by Section Detail

- **Section 1.** Removes references to unemployment insurance tax covering direct appeals by a taxpayer from a department decision to the state tax appeal board and subsequent hearings.
- **Section 2.** Removes redundant and specific unemployment insurance tax definitions in regards to the administration of withholding tax.
- **Section 3.** Cleans up language related to who is required to withhold tax from wages and clarifies how a disregarded entity and its owner will be treated for purposes of withholding tax from wages of employees.
- **Section 4.** Employer responsibilities is expanded to clarify that employers must furnish annual withholding statements to their employees as well as submit an annual statement to the department as set forth in MCA §15-30-206 and 208, respectively. In addition, language is added to clarify the requirements of pass-through entities such as partnerships, limited liability companies, etc. related to withholding of tax on wages.

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HB 158 - Section by Section Detail (cont.)

- **Section 5.** Removes references to unemployment insurance tax related to the remittance of withholding taxes and changes the remittance of withholding taxes back to the schedule in effect for years prior to the merger of unemployment insurance tax and withholding tax in July of 1997.
- **Section 6.** Provides that employer's that remit withholding taxes late will be subject to the uniform penalty and interest provisions the same as all taxes administered by the department. In addition, this section removes language attributable to unemployment insurance tax provisions for summons penalties associated with obtaining a delinquent report.
- **Section 7.** Provides that employers may remit withholding tax electronically to the department. If an employer chooses to remit withholding tax electronically such payments will be considered timely if made within 5 days after the payment due date.
- **Section 8.** Removes a reference to appeals from a final decision of the worker's compensation court from §15-30-248, MCA that is not necessary in Title 15.

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HB 158 - Section by Section Detail (cont.)

- **Section 9.** Repeals references in Title 39, Unemployment Tax Insurance referencing withholding tax statute.
- **Section 10.** Repeals in entirety §§15-30-249, 15-30-250, 15-30-256, and 15-30-257, which were adopted due the merger of unemployment insurance tax and withholding tax and are now no longer needed.
- **Section 11**. Provides a savings clause for any actions undertaken before the effective date of this act.
- **Section 12.** Provides an effective date upon passage and approval.
- **Section 13.** Provides for a retroactive applicability date of January 1, 2005

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HB158 Benefits

- Completes the transfer of unemployment insurance tax functions from the Department of Revenue to the Department of Labor and Industry.
- Streamlines for employers the remittance of withholding tax and reduces the Department of Revenue's burden in the administration of this tax.
- Clarifies withholding tax requirements for certain entities, such as partnerships, limited liability companies, etc..

Questions/Answers