

HOUSE BILL NO. 132

INTRODUCED BY B. HOVEN

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT SIMPLIFYING CLASSIFICATION AND REPORTING OF VALUES ASSIGNED TO TAXABLE PROPERTY; UPDATING THE DEFINITION OF "ANIMAL UNIT MONTHS" TO COMPLY WITH CURRENT GRAZING PRACTICES; ELIMINATING OBSOLETE LANGUAGE RELATING TO AGRICULTURAL AND FOREST LAND; AND AMENDING SECTIONS 15-7-101, 15-7-102, 15-7-103, 15-7-139, 15-7-201, 15-44-102, AND 15-44-103, MCA."

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

Section 1. Section 15-7-101, MCA, is amended to read:

"15-7-101. Classification and appraisal -- duties of the department of revenue. (1) It is the duty of the department of revenue to accomplish the following:

- (a) the classification of all taxable lands;
- (b) the appraisal of all taxable city and town lots;
- (c) the appraisal of all taxable rural and urban improvements.

(2) A record ~~thereof~~ of classifications and appraisals under subsection (1) must be kept upon ~~such the~~ maps, plats, and forms and entered in ~~such the~~ books of record ~~as may be~~ prescribed by the department. ~~Such~~ The maps, plats, forms, and books of record shall be ~~are~~ official records of the state. A certified copy of all ~~such~~ records ~~as may be desired shall~~ requested must be furnished to the department.

(3) When the department uses an appraisal method that values land and improvements as a unit, such as the comparable sales or income method, the department may establish a combined appraised value of land and improvements.

~~(3)(4)~~ It shall be ~~is~~ the duty of the department to maintain current the classification of all taxable lands and appraisal of city and town lots and rural and urban improvements, as provided for herein."

Section 2. Section 15-7-102, MCA, is amended to read:

"15-7-102. Notice of classification and appraisal to owners -- appeals. (1) (a) Except as provided

1 in 15-7-138, the department shall mail to each owner or purchaser under contract for deed a notice of the
2 classification of the land owned or being purchased and the appraisal of the improvements on the land only if one
3 or more of the following changes pertaining to the land or improvements have been made since the last notice:

4 (i) change in ownership;

5 (ii) change in classification;

6 (iii) except as provided in subsection (1)(b), change in valuation; or

7 (iv) addition or subtraction of personal property affixed to the land.

8 (b) After the first year, the department is not required to mail the notice provided for in subsection
9 (1)(a)(iii) if the change in valuation is the result of an annual incremental change in valuation caused by the
10 phasing in of a reappraisal under 15-7-111 or the application of the exemptions under 15-6-222 or caused by an
11 incremental change in the tax rate.

12 (c) The notice must include the following for the taxpayer's informational purposes:

13 (i) a notice of the availability of all the property tax assistance programs available to property taxpayers,
14 including the property tax assistance program under 15-6-134, the extended property tax assistance program
15 under 15-6-193, the disabled or deceased veterans' residence exemption under 15-6-211, and the residential
16 property tax credit for the elderly under 15-30-2337 through 15-30-2341;

17 (ii) the total amount of mills levied against the property in the prior year; and

18 (iii) a statement that the notice is not a tax bill.

19 (d) When the department uses an appraisal method that values land and improvements as a unit, such
20 as the comparable sales or income method, the notice may contain a combined appraised value of land and
21 improvements.

22 ~~(d)~~(e) Any misinformation provided in the information required by subsection (1)(c) does not affect the
23 validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

24 (2) (a) Except as provided in subsection (2)(c), the department shall assign each assessment to the
25 correct owner or purchaser under contract for deed and mail the notice of classification and appraisal on a
26 standardized form, adopted by the department, containing sufficient information in a comprehensible manner
27 designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over
28 the prior tax year.

29 (b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal
30 of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

1 (c) The department is not required to mail the notice of classification and appraisal to a new owner or
2 purchaser under contract for deed unless the department has received the transfer certificate from the clerk and
3 recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection
4 (2)(a) are mailed. The department shall notify the county tax appeal board of the date of the mailing.

5 (3) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market
6 value of the property as determined by the department or with the classification of the land or improvements, the
7 owner may request an assessment review by submitting an objection in writing to the department, on forms
8 provided by the department for that purpose, within 30 days after receiving the notice of classification and
9 appraisal from the department. The review must be conducted informally and is not subject to the contested case
10 procedures of the Montana Administrative Procedure Act. As a part of the review, the department may consider
11 the actual selling price of the property, independent appraisals of the property, and other relevant information
12 presented by the taxpayer in support of the taxpayer's opinion as to the market value of the property. The
13 department shall give reasonable notice to the taxpayer of the time and place of the review. After the review, the
14 department shall determine the correct appraisal and classification of the land or improvements and notify the
15 taxpayer of its determination. In the notification, the department shall state its reasons for revising the
16 classification or appraisal. When the proper appraisal and classification have been determined, the land must be
17 classified and the improvements appraised in the manner ordered by the department.

18 (4) Whether a review as provided in subsection (3) is held or not, the department may not adjust an
19 appraisal or classification upon the taxpayer's objection unless:

20 (a) the taxpayer has submitted an objection in writing; and

21 (b) the department has stated its reason in writing for making the adjustment.

22 (5) A taxpayer's written objection to a classification or appraisal and the department's notification to the
23 taxpayer of its determination and the reason for that determination are public records. The department shall make
24 the records available for inspection during regular office hours.

25 (6) If any property owner feels aggrieved by the classification or appraisal made by the department after
26 the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal
27 board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts.
28 The appeal to the county tax appeal board must be filed within 30 days after notice of the department's
29 determination is mailed to the taxpayer. A county tax appeal board or the state tax appeal board may consider
30 the actual selling price of the property, independent appraisals of the property, and other relevant information

presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the state tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order."

Section 3. Section 15-7-103, MCA, is amended to read:

"15-7-103. Classification and appraisal -- general and uniform methods. (1) It is the duty of the department of revenue to implement the provisions of 15-7-101 ~~through 15-7-103, 15-7-102, and this section~~ by providing:

(a) for a general and uniform method of classifying lands in the state for the purpose of securing an equitable and uniform basis of assessment of lands for taxation purposes;

(b) for a general and uniform method of appraising city and town lots;

(c) for a general and uniform method of appraising rural and urban improvements;

(d) for a general and uniform method of appraising timberlands.

(2) All lands must be classified according to their use or uses.

~~(3) Land classified as agricultural land or forest land must be subclassified and graded within each class according to soil type and productive capacity. In the classification work, use must be made of soil surveys and maps and all other pertinent available information.~~

~~(3)(4)~~ All lands must be classified by parcels or subdivisions not exceeding 1 section each, by the sections, fractional sections, or lots of all tracts of land that have been sectionized by the United States government, or by metes and bounds, whichever yields a true description of the land.

~~(4)(5)~~ All agricultural lands must be classified and appraised as agricultural lands without regard to the best and highest value use of adjacent or neighboring lands.

~~(5)(6)~~ In any periodic revaluation of taxable property completed under the provisions of 15-7-111, all property classified in 15-6-134 must be appraised on the taxable portion of its market value in the same year. The department shall publish a rule specifying the year used in the appraisal.

~~(6)(7)~~ All sewage disposal systems and domestic use water supply systems of all dwellings may not be appraised, assessed, and taxed separately from the land, house, or other improvements in which they are located. In no event may the sewage disposal or domestic water supply systems be included twice by including them in the valuation and assessing them separately."

1 **Section 4.** Section 15-7-139, MCA, is amended to read:

2 **"15-7-139. Requirements for entry on property by property valuation staff employed by**
3 **department -- authority to estimate value of property not entered -- rules.** (1) Subject to the conditions and
4 restriction of this section, the provisions of 45-6-203 do not apply to property valuation staff employed by the
5 department and acting within the course and scope of the employees' official duties.

6 (2) A person qualified under subsection (1) may enter private land to appraise or audit property for
7 property tax purposes.

8 (3) (a) No later than November 30 of each year, the department shall publish in a newspaper of general
9 circulation in each county a notice that the department may enter property for the purpose of appraising or
10 auditing property.

11 (b) The published notice must indicate:

12 (i) that a landowner may require that the landowner or the landowner's agent be present when the person
13 qualified in subsection (1) enters the land to appraise or audit property;

14 (ii) that the landowner shall notify the department in writing of the landowner's requirement that the
15 landowner or landowner's agent be present; and

16 (iii) that the landowner's written notice must be mailed to the department at an address specified and be
17 postmarked not more than 30 days following the date of publication of the notice. The department may grant a
18 reasonable extension of time for returning the written notice.

19 (4) The written notice described in subsection (3)(b)(ii) must be legible and include:

20 (a) the landowner's full name;

21 (b) the mailing address and property address; and

22 (c) a telephone number at which an appraiser may contact the landowner during normal business hours.

23 (5) When the department receives a written notice as described in subsection (4), the department shall
24 contact the landowner or the landowner's agent to establish a date and time for entering the land to appraise or
25 audit the property.

26 (6) If a landowner or the landowner's agent prevents a person qualified under subsection (1) from
27 entering land to appraise or audit property or fails or refuses to establish a date and time for entering the land
28 pursuant to subsection (5), the department shall estimate the value of the real and personal property located on
29 the land.

30 (7) A county tax appeal board and the state tax appeal board may not adjust the estimated value of the

1 real or personal property determined under subsection (6) unless the landowner or the landowner's agent:

2 (a) gives permission to the department to enter the land to appraise or audit the property; or

3 (b) provides to the department and files with the county tax appeal board or the state tax appeal board
4 an appraisal of the property conducted by an appraiser who is certified by the Montana board of real estate
5 appraisers. The appraisal must be conducted in accordance with current uniform standards of professional
6 appraisal practice established for certified real estate appraisers under 37-54-403. The appraisal must be
7 conducted within 1 year of the reappraisal base year provided for in 15-7-103~~(5)~~(6) and must establish a separate
8 market value for each improvement and the land.

9 (8) A person qualified under subsection (1) who enters land pursuant to this section shall carry on the
10 person identification sufficient to identify the person and the person's employer and shall present the identification
11 upon request.

12 (9) The authority granted by this section does not authorize entry into improvements, personal property,
13 or buildings or structures without the permission of the owner or the owner's agent.

14 (10) Vehicular access to perform appraisals and audits is limited to established roads and trails, unless
15 approval for other vehicular access is granted by the landowner.

16 (11) The department shall adopt rules that are necessary to implement 15-7-140 and this section. The
17 rules must, at a minimum, establish procedures for granting a reasonable extension of time for landowners to
18 respond to notices from the department."

19
20 **Section 5.** Section 15-7-201, MCA, is amended to read:

21 **"15-7-201. Legislative intent -- value of agricultural property.** (1) Because the market value of many
22 agricultural properties is based upon speculative purchases that do not reflect the productive capability of
23 agricultural land, it is the legislative intent that bona fide agricultural properties be classified and assessed at a
24 value that is exclusive of values attributed to urban influences or speculative purposes.

25 (2) Agricultural land must be classified according to its use, which classifications include but are not
26 limited to irrigated use, nonirrigated use, and grazing use.

27 (3) Within each class, land must be subclassified by ~~production categories~~ productive capacity.
28 ~~Production categories are~~ Productive capacity is determined from the productive capacity of the land based on
29 yield.

30 (4) In computing the agricultural land valuation schedules to take effect on the date when each

1 revaluation cycle takes effect pursuant to 15-7-111, the department of revenue shall determine the productive
2 capacity value of all agricultural lands using the formula $V = I/R$ where:

3 (a) V is the per-acre productive capacity value of agricultural land in each ~~land use and production~~
4 ~~category subclass~~; category subclass;

5 (b) I is the per-acre net income of agricultural land in each ~~land use and production category subclass~~
6 and is to be determined as provided in subsection (5); and

7 (c) R is the capitalization rate and, unless the advisory committee recommends a different rate and the
8 department adopts the recommended capitalization rate by rule, is equal to 6.4%. This capitalization rate must
9 remain in effect until the next revaluation cycle.

10 (5) (a) Net income must be determined separately ~~in each land use based on production categories for~~
11 each subclass.

12 (b) Net income must be based on commodity price data, which may include grazing fees, crop and
13 livestock share arrangements, cost of production data, and water cost data for the base period using the best
14 available data.

15 (i) Commodity price data and cost of production data for the base period must be obtained from the
16 Montana Agricultural Statistics, the Montana crop and livestock reporting service, and other sources of publicly
17 available information if considered appropriate by the advisory committee.

18 (ii) Crop share and livestock share arrangements are based on typical agricultural business practices and
19 average landowner costs.

20 (iii) Allowable water costs consist only of the per-acre labor costs, energy costs of irrigation, and, unless
21 the advisory committee recommends otherwise and the department adopts the recommended cost by rule, a
22 base water cost of \$15 for each acre of irrigated land. Total allowable water costs may not exceed \$50 for each
23 acre of irrigated land. Labor and energy costs must be determined as follows:

24 (A) Labor costs are \$5 an acre for pivot sprinkler irrigation systems; \$10 an acre for tow lines, side roll,
25 and lateral sprinkler irrigation systems; and \$15 an acre for hand-moved and flood irrigation systems.

26 (B) Energy costs must be based on per-acre energy costs incurred in the energy cost base year, which
27 is the calendar year immediately preceding the year specified by the department in 15-7-103(5)(6). By July 1 of
28 the year following the energy cost base year, an owner of irrigated land shall provide the department, on a form
29 prescribed by the department, with energy costs incurred in that energy cost base year. In the event that no
30 energy costs were incurred in the energy cost base year, the owner of irrigated land shall provide the department

1 with energy costs from the most recent year available. The department shall adjust the most recent year's energy
2 costs to reflect costs in the energy cost base year.

3 (c) The base crop for valuation of irrigated land is alfalfa hay adjusted to 80% of the sales price, and the
4 base crop for valuation of nonirrigated land is spring wheat. The base unit for valuation of grazing lands is animal
5 unit months (~~AUM~~), defined as the average monthly requirement of pasture forage to support a ~~1,000-pound~~
6 1,200-pound cow with a calf or its equivalent.

7 (d) Unless the advisory committee recommends a different base period and the department adopts the
8 recommended base period by rule, the base period used to determine net income must be the most recent 7
9 years for which data is available prior to the date the revaluation cycle ends. Unless the advisory committee
10 recommends a different averaging method and the department adopts the recommended averaging method by
11 rule, data referred to in subsection (5)(b) must be averaged, but the average must exclude the lowest and highest
12 yearly data in the period.

13 (6) The department shall compile data and develop valuation manuals adopted by rule to implement the
14 valuation method established by subsections (4) and (5).

15 (7) The governor shall appoint an advisory committee of persons knowledgeable in agriculture and
16 agricultural economics. The advisory committee shall include one member of the Montana state
17 university-Bozeman, college of agriculture, staff. The advisory committee shall:

18 (a) compile and review data required by subsections (4) and (5);

19 (b) recommend to the department any adjustments to data or to landowners' share percentages if
20 required by changes in government agricultural programs, market conditions, or prevailing agricultural practices;

21 (c) recommend appropriate base periods and averaging methods to the department;

22 (d) evaluate the appropriateness of the capitalization rate and recommend a rate to the department;

23 (e) verify for each class and subclass of land that the income determined in subsection (5) reasonably
24 approximates that which the average Montana farmer or rancher could have attained; and

25 (f) recommend agricultural land valuation schedules to the department. With respect to irrigated land,
26 the recommended value of irrigated land may not be below the value that the land would have if it were not
27 irrigated."

28
29 **Section 6.** Section 15-44-102, MCA, is amended to read:

30 **"15-44-102. Definitions.** For the purposes of this part, unless the context requires otherwise, the

1 following definitions apply:

2 (1) "Culmination of mean annual increment" means the point of optimum net wood production on an acre
3 of forest land.

4 (2) "Cultivated Christmas trees" means Christmas trees that are grown on land prepared by intensive
5 cultivation and tilling, such as by plowing or turning over the soil, and on which all unwanted plant growth is
6 controlled for the exclusive purpose of raising Christmas trees.

7 (3) "Department" means the department of revenue.

8 (4) "Forest" means forest land and the timber on the land.

9 (5) "Forest land" means contiguous land of 15 acres or more in one ownership that is capable of
10 producing timber that can be harvested in commercial quantity and is producing timber unless the trees have
11 been removed through harvest, including clearcuts, or by natural disaster, including but not limited to fire. Forest
12 land includes land:

13 (a) that has not been converted to another use; and

14 (b) on which the annual net wood production equals or exceeds ~~25 cubic~~ 100 board feet an acre at the
15 culmination of mean annual increment.

16 (6) "Forest productivity value" means the value of forest land for assessment purposes, which value is
17 determined only on the basis of its potential to produce timber, other forest products, and associated agricultural
18 products through an income approach provided for in 15-44-103.

19 (7) "Harvest" means an activity related to the cutting or removal of timber for use or sale as a forest
20 product.

21 (8) "Landowner" means an individual, corporation, association, company, firm, joint venture, syndicate,
22 or trust.

23 (9) "Mean annual net wood production" means the average net usable volume of wood that 1 acre of
24 forest land will grow in 1 year under average current and actual forest conditions and under current and
25 reasonable management practices for each forest valuation zone established under 15-44-103.

26 (10) "Stumpage value" means the amount that timber would sell for under an arm's-length transaction
27 made in the ordinary course of business, expressed in terms of dollars per unit of measure.

28 (11) (a) "Timber" means all wood growth on privately owned land, mature or immature, alive or dead,
29 standing or down, that is capable of furnishing raw material used in the manufacture of lumber or other forest
30 products.

(b) The term does not include cultivated Christmas trees."

Section 7. Section 15-44-103, MCA, is amended to read:

"15-44-103. Legislative intent -- value of forest lands -- valuation zones. (1) In order to encourage landowners of private forest lands to retain and improve their holdings of forest lands, to promote better forest practices, and to encourage the investment of capital in reforestation, forest lands must be classified and assessed under the provisions of this section.

(2) The forest productivity value of forest land must be determined by:

(a) capitalizing the value of the mean annual net wood production at the culmination of mean annual increment plus other agriculture-related income, if any; less

(b) annualized expenses, including but not limited to the establishment, protection, maintenance, improvement, and management of the crop over the rotation period.

(3) To determine the forest productivity value of forest lands, the department shall:

(a) divide the state into appropriate forest valuation zones, with each zone designated so as to recognize the uniqueness of marketing areas, timber types, growth rates, access, operability, and other pertinent factors of that zone; and

(b) establish a uniform system of forest land classification that takes into consideration the productive capacity of the site to grow forest products and furnish other associated agricultural uses.

(4) In computing the forest land productivity valuation ~~schedules~~ for each forest valuation zone, the department shall determine the productive capacity value of all forest lands in each forest valuation zone using the formula $V = I/R$, where:

(a) V is the per-acre forest productivity value of the forest land;

(b) I is the per-acre net income of forest lands in each valuation zone and is determined by the department using the formula $I = (M \times SV) + AI - C$, where:

(i) I is the per-acre net income;

(ii) M is the mean annual net wood production;

(iii) SV is the stumpage value;

(iv) AI is the per-acre agriculture-related income; and

(v) C is the per-unit cost of the forest product and agricultural product produced, if any; and

(c) R is the capitalization rate determined by the department as provided in subsection (6).

1 (5) Net income must:

2 (a) be calculated for each year of a base period, which is the most recent 5-year period for which data
3 is available;

4 (b) be based on a rolling average of stumpage value of timber harvested within the forest valuation zone
5 and on the associated production cost data for the base period from sources considered appropriate by the
6 department; and

7 (c) include agriculture-related net income for the same time period as the period used to determine
8 average stumpage values.

9 (6) The capitalization rate must be calculated for each year of the base period and is the average
10 capitalization rate determined by the department after consultation with the forest lands taxation advisory
11 committee, plus the effective tax rate. The capitalization rate must be adopted by rule. However, the capitalization
12 rate for each year of the base period for tax years 2009 through 2014 may not be less than 8%.

13 (7) The effective tax rate must be calculated for each year of the base period by dividing the total
14 estimated tax due on forest lands subject to the provisions of this section by the total forest value of those lands.

15 (8) For the purposes of this section, if forest service sales are used in the determination of stumpage
16 values, the department shall take into account purchaser road credits.

17 (9) In determining the forest productivity value of forest lands and in computing the forest land valuation
18 schedules, the department shall use information and data provided by the university of Montana-Missoula.

19 (10) (a) There is a forest lands taxation advisory committee consisting of:

20 (i) four members with expertise in forest matters, one appointed by the majority leader of the senate, one
21 by the minority leader of the senate, one by the majority leader of the house of representatives, and one by the
22 minority leader of the house of representatives; and

23 (ii) three members appointed by the governor, one who is an industrial forest landowner, one who is a
24 nonindustrial forest landowner, and one who is a county commissioner.

25 (b) The terms of the members expire on June 30 of the first year of each reappraisal cycle.

26 (c) The advisory committee shall:

27 (i) review data required by subsections (2) through (6), (8), and (9), including data on productivity value,
28 stumpage value, wood production, capitalization rate, net income, and agriculture-related income;

29 (ii) recommend to the department any adjustments to data if required by changes in government forest
30 land programs, market conditions, or prevailing forest lands practices;

1 (iii) recommend appropriate base periods and averaging methods to the department;

2 (iv) verify for each forest valuation zone and forest land classification and subclassification under
3 subsection (3) that the income determined in subsection (5) reasonably approximates that which the average
4 Montana forest landowner could have attained; and

5 (v) recommend forest land valuation ~~schedules~~ techniques to the department."
6

7 NEW SECTION. Section 8. Saving clause. [This act] does not affect rights and duties that matured,
8 penalties that were incurred, or proceedings that were begun before [the effective date of this act].
9

10 NEW SECTION. Section 9. Severability. If a part of [this act] is invalid, all valid parts that are severable
11 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part
12 remains in effect in all valid applications that are severable from the invalid applications.
13

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