



Revenue and Transportation Interim Committee

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59th Montana Legislature

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December 13, 2005

TO: Committee Members
FROM: Lee Heiman, Staff Attorney
RE: Administrative Rule Activity

Department of Revenue

All notices available on the Internet at:

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

Notices of Proposed Rules:

Relating to the Montana source income, MAR 42-2-754. A public hearing will be held on December 29, 2005, at the Director's Office Conference Room, Mitchell Building, Helena. The Department proposes to amend the definition of Montana source income in ARM 42.2.304(29) by including, as examples, deferred sales, installment sales, and like-kind exchanges. The reasonable necessity is to address questions about whether a gain from a sale somehow loses its character as Montana source income if the gain is not recognized until sometime in the future. Federal law taxes gains received in installments, by default, in the year in which each installment payment is received. For like-kind exchanges, under federal law, deferred gains are determined at the time of the taxable disposition of the property. There can be serial like-kind exchanges where an owner carries the basis of the original property through multiple pieces of exchanged property over a period of time. Like-kind exchanges apply only to productive and investment property, so any gain could be deferred for the life of a business. Section 12 Senate Bill No. 513, 2005 Session, addressed withholding for gains in certain real property sales, but, as amended, exempted like-kind exchanges.