

SENATE BILL NO. 462
INTRODUCED BY B. DEPRATU

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING ACCELERATED DEPRECIATION FOR RENEWABLE AND RECLAIMABLE RESOURCE RECOVERY AND UTILIZATION EQUIPMENT IN A STRAIGHT LINE OVER 3 YEARS; AND PROVIDING FOR A RECAPTURE FOR PROPERTY WRONGLY CLAIMED FOR THE ACCELERATED DEPRECIATION OR PROPERTY NO LONGER USED IN A QUALIFYING MANNER."

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

NEW SECTION. Section 1. Accelerated depreciation for renewable and reclaimable resource recovery and utilization equipment. (1) A taxpayer may elect to depreciate property that is depreciable property under the Internal Revenue Code and that is used for the purposes set forth in subsection (2) in a straight line over a 3-year period in lieu of any other method of depreciation, including the special depreciation allowance received under the federal Job Creation and Worker Assistance Act of 2002, Public Law 107-147, codified under section 168(k) and section 1400L of the Internal Revenue Code of 1986, as amended.

(2) Property qualifying for the accelerated depreciation under subsection (1) is tangible personal property that is used to perform recovery and utilization activities for renewable and reclaimable resources and includes tangible personal property:

- (a) used to perform those activities in a forest, wildland, or storage location;
- (b) used to transport the resources from their location to a point of further use; and
- (c) used to process or reclaim the renewable and reclaimable resources.

(3) For the purposes of this section, renewable and reclaimable resources include but are not limited to:

- (a) slash and forest debris incidental to activities of timber harvesting, forest health, and fire prevention;

and

(b) nonhazardous solid material that has useful properties after serving a specific purpose and that might normally be disposed of as solid waste. Renewable and reclaimable resources do not include any hazardous waste.

(4) Taxpayers electing to depreciate property as allowed by this section must report each item of property and the projects on which it was used during the tax year to the department at the time of reporting the tax due.

(5) The department shall by rule specify property types subject to the depreciation allowance in this

section. The taxpayer shall provide information that the department may require to ensure that the property is being used for renewable and reclaimable resource recovery and utilization.

(6) Any property that was claimed but was not eligible under this section for the depreciation or which, after the depreciation was elected, no longer qualifies under this section during the time set by the Internal Revenue Service for straight-line depreciation of that type of property is subject to recapture to the extent of the difference in the amount of tax attributable, at the top marginal rate, to the difference between the accelerated depreciation allowed by this section and a straight-line depreciation allowance on the same property from the year the accelerated depreciation was wrongfully claimed or the use changed to the year the claim is disallowed.

NEW SECTION. Section 2. Accelerated depreciation for renewable and reclaimable resource recovery and utilization equipment. A taxpayer may elect to depreciate certain depreciable equipment used for renewable and reclaimable resource recovery and utilization as provided in [section 1].

NEW SECTION. Section 3. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 31, and the provisions of Title 15, chapter 31, apply to [section 2].

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