

HOUSE BILL NO. 257
INTRODUCED BY B. LAKE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXPAYER BILL OF RIGHTS; REQUIRING THE DEPARTMENT OF REVENUE TO TREAT ~~ALL~~ SIMILARLY SITUATED TAXPAYERS IN THE SAME A SIMILAR MANNER REGARDING THE ADMINISTRATION AND COLLECTION OF TAXES AND AVAILABLE TAXPAYER REMEDIES; REQUIRING THE DEPARTMENT OF REVENUE TO ADHERE TO THE SAME TAX APPEAL DEADLINES AS THE TAXPAYER; PROVIDING FOR A FEE FOR MONITORING COMPLIANCE WITH THE MONTANA TAXPAYER BILL OF RIGHTS; ~~AMENDING SECTION~~ SECTIONS 15-1-222 AND 15-1-223, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 15-1-222, MCA, is amended to read:

"15-1-222. Taxpayer bill of rights. The department of revenue shall in the course of performing its duties in the administration and collection of the state's taxes ensure that:

(1) the taxpayer has the right to record any interview, meeting, or conference with auditors or any other representatives of the department;

(2) the taxpayer has the right to hire a representative of the taxpayer's choice to represent the taxpayer's interests before the department or any tax appeal board. The taxpayer has a right to obtain a representative at any time, except that the selection of a representative may not be used to unreasonably delay a field audit that is in progress. The representative must have written authorization from the taxpayer to receive from the department confidential information concerning the taxpayer. The department shall provide copies to the authorized representative of all information sent to the taxpayer and shall notify the authorized representative concerning contacts with the taxpayer.

~~(3) EXCEPT AS PROVIDED IN SUBSECTION (5), the taxpayer, including any nonprofit organization or any pass-through entity, as defined in 15-30-101, has the right to be treated in the same manner as all other~~ BY THE DEPARTMENT IN A SIMILAR MANNER AS ALL SIMILARLY SITUATED taxpayers regarding the administration and collection of taxes, imposition of penalties and interest, and available taxpayer remedies UNLESS THERE IS A RATIONAL BASIS FOR THE DEPARTMENT TO DISTINGUISH THEM;

~~(3)~~(4) the taxpayer has the right to obtain tax advice from the department. The taxpayer has a right to

the waiver of penalties and interest, but not taxes, when ~~he~~ the taxpayer has relied on written advice provided to ~~him~~ the taxpayer by an employee of the department.

~~(4)~~(5) at the discretion of the department, UPON CONSIDERATION OF ALL FACTS RELEVANT TO THE SPECIFIC TAXPAYER, the taxpayer has the right to pay delinquent taxes, interest, and penalties on an installment basis. This subsection applies only to taxes collected by the department, provided the taxpayer meets reasonable criteria.

~~(5)~~(6) the taxpayer has the right to a complete and accurate written description of the basis for any additional tax assessed by the department;

~~(6)~~(7) the taxpayer has the right to a review by management level employees of the department for any additional taxes assessed by the department;

~~(7)~~(8) the taxpayer has the right to a full explanation of the available procedures for review and appeal of additional tax assessments;

~~(8)~~(9) the taxpayer, after the exhaustion of all appropriate administrative remedies, has the right to have the state tax appeal board or a court, or both, review any final decision of the department assessing an additional tax. The taxpayer shall seek a review in a timely manner. A taxpayer is entitled to collect court costs and attorney fees from the department for frivolous or bad faith lawsuits as provided in 25-10-711.

(10) the taxpayer has the right to expect that the department will adhere to the same tax appeal deadlines as are required of the taxpayer unless otherwise provided by law;

~~(9)~~(11) the taxpayer has the right to a full explanation of the department's authority to collect delinquent taxes, including the procedures and notices that are required to protect the taxpayer;

~~(10)~~(12) the taxpayer has the right to have certain property exempt from levy and seizure as provided in Title 25, chapter 13, part 6, and any other applicable provisions in Montana law;

~~(11)~~(13) the taxpayer has the right to the immediate release of any lien the department has placed on property when the tax is paid or when the lien is the result of an error by the department;

~~(12)~~(14) the taxpayer has the right to assistance from the department in complying with state and local tax laws that the department administers; and

~~(13)~~(15) the taxpayer has the right to be guaranteed that an employee of the department is not paid, promoted, or in any way rewarded on the basis of assessments or collections from taxpayers."

SECTION 2. SECTION 15-1-223, MCA, IS AMENDED TO READ:

"15-1-223. Office of taxpayer assistance. (1) The department of revenue shall establish and maintain an office of taxpayer assistance.

(2) The office shall assist taxpayers by:

(a) providing easily understandable tax information on audits and corrections and review procedures of the department;

(b) providing easily understandable information on appeal procedures;

(c) answering questions regarding preparing and filing of returns and reports with the department; and

(d) locating documents or payments filed with or submitted to the department.

(3) The office of taxpayer assistance shall also:

(a) receive and evaluate complaints related to improper or abusive behavior or inefficient service provided by employees of the department and recommend appropriate action to the director of the department ~~of revenue~~ to resolve the complaints;

(b) compile data on the number and type of taxpayer complaints received and evaluate the actions taken to resolve complaints;

(c) survey taxpayers to obtain their evaluation of the quality of service provided by the department;

(d) monitor the department's compliance with the taxpayer bill of rights and report any abuses to the director of the department;

(e) monitor the department's collection activities to:

(i) report any abuses in collection activities by the department to the director;

(ii) recommend to the director whether a particular collection activity should be stopped if the taxpayer has not had an adequate opportunity to discuss alternative means of payment; and

(f) perform any other functions that the director may assign to assist taxpayers in complying with Montana's tax laws.

(4) The department may charge a fee of \$1 for processing a complaint."

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

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