

HOUSE BILL NO. 88

INTRODUCED BY B. HOVEN

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT STANDARDIZING INDIVIDUAL LIABILITY FOR REPORTING AND PAYMENT OF TRUST TAXES; CENTRALIZING INDIVIDUAL LIABILITY FOR CORPORATE DIRECTORS AND OFFICERS, MANAGERS AND MEMBERS OF LIMITED LIABILITY COMPANIES, AND PARTNERS OF LIMITED LIABILITY PARTNERSHIPS FOR TRUST TAXES; PROVIDING UNIFORM PENALTY AND INTEREST PROVISIONS FOR COMPANIES OR RESPONSIBLE INDIVIDUALS WHO FAIL TO FILE RETURNS OR PAY TAXES; AMENDING SECTIONS 15-1-302, 15-30-2501, 15-30-2503, 15-30-2505, 15-30-2506, 15-30-2507, 15-30-2508, 15-30-2536, 15-30-2537, 15-30-2539, 15-30-2540, 15-30-2542, 15-30-2544, 15-30-2545, 15-30-2547, AND 15-53-130, MCA; REPEALING SECTIONS 15-30-2509, 15-30-2546, 15-53-147, AND 15-53-148, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Individual liability for taxes held in trust for state -- definitions. As used in [sections 2 and 3] and this section, the following definitions apply:

(1) "Employer" has the meaning provided in 15-30-2501.

(2) "Remitter" has the meaning provided in 15-30-2537.

(3) "Responsible individual" means an employer, remitter, or telecommunications services provider who is liable for collecting a trust tax and for remitting the collected amounts to the department, including corporate officers and directors, partners of a partnership, and managers and members of a limited liability company as provided in [section 2].

(4) "Telecommunications services provider" has the meaning provided in 15-53-129.

(5) "Trust tax" means those taxes to be collected by an employer, a remitter, or a telecommunications services provider on behalf of the department and includes employee withholding taxes and mineral royalty withholding taxes described in Title 15, chapter 30, part 25, and retail telecommunications taxes described in Title 15, chapter 53.

1 **NEW SECTION. Section 2. Liability for failure to pay trust taxes.** (1) For the purpose of determining
2 liability for the filing of statements and payment of trust taxes, penalties, and interest owed under Title 15, chapter
3 30, part 25, or Title 15, chapter 53, part 1, a responsible individual is individually liable for filing statements or
4 reports, for payment of the amount equal to the tax, and for the penalty and interest due on the amounts pursuant
5 to 15-1-216.

6 (2) The officer or director of a corporation whose responsibility it is to collect, truthfully account for, and
7 pay to the state the amounts withheld and who fails to remit the amounts to the state is liable to the state for the
8 amounts withheld and for the penalty and interest due on the amounts as a responsible individual.

9 (3) (a) Each officer and director of the corporation is individually liable as a responsible individual, along
10 with the corporation, for filing statements to the extent that the officer or director has access to the requisite
11 records and for unpaid taxes, penalties, and interest pursuant to 15-1-216 upon a determination that the officer
12 or director:

13 (i) possessed the responsibility to file statements and pay taxes on behalf of the corporation; and

14 (ii) possessed the responsibility on behalf of the corporation for directing the filing of tax statements or
15 the payment of other corporate obligations and exercised that responsibility in a manner resulting in the
16 corporation's failure to file statements required by this part or pay taxes due as required by this part.

17 (b) In determining which corporate officer or director is liable, the department is not limited to considering
18 the elements set forth in subsection (3)(a) to establish individual liability and may consider any other available
19 information.

20 (4) In the case of a corporate bankruptcy, the liability of the responsible individual remains unaffected
21 by the discharge of penalty and interest against the corporation. The responsible individual remains liable for any
22 statements and for the amount of taxes, penalties, and interest unpaid by the corporation.

23 (5) (a) Each partner of a partnership is a responsible individual and is jointly and severally liable, along
24 with the partnership, for any statements, taxes, penalties, and interest due while a partner.

25 (b) Each member of a limited liability company that is treated as a partnership or as a corporation for
26 income tax purposes is a responsible individual and is jointly and severally liable, along with the limited liability
27 company, for any statements, taxes, penalties, and interest due while a member.

28 (c) The member of a single-member limited liability company that is disregarded for income tax purposes
29 is a responsible individual and is jointly and severally liable, along with the limited liability company, for any
30 statements, taxes, penalties, and interest due while a member.

1 (d) Each manager of a manager-managed limited liability company is a responsible individual and is
2 jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and
3 interest due while a manager.

4 (6) The liability of a responsible individual described in subsection (3) or (5) for taxes, penalties, and
5 interest is released if and to the extent that the amount required to be deducted and withheld is deposited in a
6 separate account that is:

7 (a) established in a bank, as defined in 32-1-102, located in Montana;

8 (b) designated as a special fund in trust for the state; and

9 (c) payable to the department.

10 (7) If the responsible individual fails to deduct and withhold the amounts specified in Title 15, chapter
11 30, part 25, or Title 15, chapter 53, part 1, and the tax against which the deducted and withheld amounts would
12 have been credited is paid, the amounts required to be deducted and withheld may not be collected from the
13 responsible individual.

14 (8) In addition to the penalties imposed by 15-1-216, the failure of a responsible individual to furnish
15 supporting tax statements as required by Title 15, chapter 30, part 25, subjects the responsible individual to a
16 penalty of \$5 for each failure, with a minimum of \$50.

17 (9) All remedies available to the state for the administration, enforcement, and collection of taxes are
18 available and apply to the trust tax required to be deducted and withheld under the provisions Title 15, chapter
19 30, part 25, or Title 15, chapter 53, part 1, unless otherwise specifically provided.

20

21 **NEW SECTION. Section 3. Estimation of tax upon failure to file return -- notice.** (1) If a responsible
22 individual fails, neglects, or refuses to file a return or fails to pay the tax required under Title 15, chapter 30, part
23 25, or Title 15, chapter 53, part 1, within the periods required, the department shall estimate the amount of
24 revenue subject to tax under this part during the preceding quarter.

25 (2) The department shall compute the amount of tax due from the responsible individual and mail to the
26 responsible individual a letter and tax assessment statement setting forth the amount of delinquent tax, penalty,
27 and interest due. The letter must advise that if payment is not made, a warrant for distraint may be filed.

28

29 **Section 4.** Section 15-1-302, MCA, is amended to read:

30 **"15-1-302. Witnesses -- oaths, contempt, and fees.** (1) Oaths to witnesses in any investigation by the

1 department may be administered by the director of revenue or the director's agent.

2 (2) (a) If a witness fails to obey a summons to appear before the department or refuses to testify or
3 answer any material question or to produce records, books, papers, or documents when required to do so, the
4 department shall institute proceedings in the district court to compel obedience to a summons or order of the
5 board or to punish the witness for neglect or refusal to obey the summons.

6 (b) As required by ~~15-30-2509~~ [sections 1 through 3], the department, in addition to instituting
7 proceedings to compel obedience to a summons or order shall, as a part of the proceedings, request the court
8 to issue an order requiring the payment of all penalties assessed for the employer's failure to report.

9 (3) A person who testifies falsely in any material matter under consideration by the department is guilty
10 of perjury and shall be punished accordingly.

11 (4) Witnesses attending an investigation by the department must receive the same compensation as
12 witnesses in the district court. The compensation must be charged to the proper appropriation for the
13 department."

14

15 **Section 5.** Section 15-30-2501, MCA, is amended to read:

16 **"15-30-2501. Definitions.** When used in 15-30-2501 through ~~15-30-2509~~ 15-30-2508, the following
17 definitions apply:

18 (1) (a) "Employee" means:

19 (i) an individual who performs services for another individual or an organization having the right to control
20 the employee as to the services to be performed and as to the manner of performance;

21 (ii) an officer, employee, or elected public official of the United States, the state of Montana, or any
22 political subdivision of the United States or Montana or any agency or instrumentality of the United States, the
23 state of Montana, or a political subdivision of the United States or Montana;

24 (iii) an officer of a corporation;

25 (iv) all classes, grades, or types of employees including minors and aliens, superintendents, managers,
26 and other supervisory personnel.

27 (b) The term does not include a sole proprietor performing services for the sole proprietorship.

28 (2) "Employer" means:

29 (a) the person for whom an individual performs or performed any service, of whatever nature, as an
30 employee of the person or, if the person for whom the individual performs or performed the services does not

- 1 have control of the payment of wages for the services, the person having control of the payment of wages;
- 2 (b) any individual or organization that has or had in its employ one or more individuals performing
- 3 services for it within this state, including:
- 4 (i) a state government and any of its political subdivisions or instrumentalities;
- 5 (ii) a partnership, association, trust, estate, joint-stock company, insurance company, limited liability
- 6 company, or domestic or foreign corporation;
- 7 (iii) a receiver, trustee, including a trustee in bankruptcy, or the trustee's successor; or
- 8 (iv) a legal representative of a deceased person; or
- 9 (c) any person found to be an employer under Title 39, chapter 51, for unemployment insurance
- 10 purposes, or under Title 39, chapter 71, for workers' compensation purposes.
- 11 (3) "Lookback period" means the 12-month period ending the preceding June 30.
- 12 (4) "Sole proprietor" means an individual doing business in a noncorporate form and includes the
- 13 member of a single-member limited liability company that is a disregarded entity if the member is an individual.
- 14 (5) (a) Except as provided in subsection (5)(b), "wages" has the meaning provided in section 3401 of
- 15 the Internal Revenue Code, 26 U.S.C. 3401.
- 16 (b) The term does not include:
- 17 (i) tips and gratuities exempt from taxation under 15-30-2110;
- 18 (ii) health insurance premiums attributed as income to an employee under federal law that are exempt
- 19 from taxation under 15-30-2110;
- 20 (iii) unemployment compensation, including supplemental unemployment compensation treated as wages
- 21 under section 3402 of the Internal Revenue Code, 26 U.S.C. 3402, that is excluded from gross income as
- 22 provided in 15-30-2101; or
- 23 (iv) any amount paid a sole proprietor."
- 24

25 **Section 6.** Section 15-30-2503, MCA, is amended to read:

26 **"15-30-2503. Employer liable for withholding taxes and statements.** (1) Each employer is liable for

27 the payments required by 15-30-2504, the amounts required to be deducted and withheld under this part, and

28 the annual statements required by 15-30-2506 and 15-30-2507. The payments required by 15-30-2504 and the

29 amounts required to be deducted and withheld, plus interest due, are a tax. With respect to the tax, the employer

30 is the taxpayer.

1 ~~(2) The officer of a corporation whose responsibility it is to collect, truthfully account for, and pay to the~~
2 ~~state the amounts withheld from the corporation's employees and who fails to pay the withholdings Pursuant to~~
3 ~~[sections 1 through 3], each responsible individual is individually liable to the state for the filing of statements, the~~
4 ~~amounts withheld, the payment of tax, and the penalty and interest due on the amounts pursuant to 15-1-216.~~
5 ~~(3) (a) Each officer of the corporation is individually liable along with the corporation for filing statements~~
6 ~~to the extent that the officer has access to the requisite records and for unpaid taxes, penalties, and interest upon~~
7 ~~a determination that the officer:~~
8 ~~(i) possessed the responsibility to file statements and pay taxes on behalf of the corporation; and~~
9 ~~(ii) possessed the responsibility on behalf of the corporation for directing the filing of tax statements or~~
10 ~~the payment of other corporate obligations and exercised that responsibility, resulting in the corporation's failure~~
11 ~~to file statements required by this part or pay taxes due as required by this part.~~
12 ~~(b) In determining which corporate officer is liable, the department is not limited to considering the~~
13 ~~elements set forth in subsection (3)(a) to establish individual liability and may consider any other available~~
14 ~~information.~~
15 ~~(4) In the case of a corporate bankruptcy, the liability of the individual remains unaffected by the~~
16 ~~discharge of penalty and interest against the corporation. The individual remains liable for any statements and~~
17 ~~the amount of taxes, penalties, and interest unpaid by the corporation.~~
18 ~~(5) For the purpose of determining liability for the filing of statements and the remittance of taxes,~~
19 ~~penalties, and interest owed under this part:~~
20 ~~(a) each partner of a partnership is jointly and severally liable, along with the partnership, for any~~
21 ~~statements, taxes, penalties, and interest due while a partner;~~
22 ~~(b) each member of a limited liability company that is treated as a partnership or as a corporation for~~
23 ~~income tax purposes is jointly and severally liable, along with the limited liability company, for any statements,~~
24 ~~taxes, penalties, and interest due while a member;~~
25 ~~(c) the member of a single-member limited liability company that is disregarded for income tax purposes~~
26 ~~is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and~~
27 ~~interest due while a member; and~~
28 ~~(d) each manager of a manager-managed limited liability company is jointly and severally liable, along~~
29 ~~with the limited liability company, for any statements, taxes, penalties, and interest due while a manager.~~
30 ~~(6) If the employer fails to deduct and withhold the amounts specified in 15-30-2502 and the tax against~~

1 which the deducted and withheld amounts would have been credited is paid, the amounts required to be deducted
2 and withheld may not be collected from the employer."
3

4 **Section 7.** Section 15-30-2505, MCA, is amended to read:

5 **"15-30-2505. Amount withheld considered as tax collected.** All amounts deducted and withheld must
6 be considered as a tax collected under the provisions of 15-30-2501 through ~~15-30-2509~~ 15-30-2508, and an
7 employee does not have any right of action against the employer in respect to any money deducted and withheld
8 from the employee's wages and paid to the state in compliance or intended compliance with 15-30-2501 through
9 ~~15-30-2509~~ 15-30-2508."
10

11 **Section 8.** Section 15-30-2506, MCA, is amended to read:

12 **"15-30-2506. Annual withholding statement.** Every employer shall, prior to January 31 in each year,
13 furnish to each employee a written statement showing the total wages paid by the employer to the employee
14 during the preceding calendar year and showing the amount of the federal income tax deducted and withheld
15 from the wages and the amount of the tax deducted and withheld under the provisions of 15-30-2501 through
16 ~~15-30-2509~~ 15-30-2508. The statement must contain additional information and must be in the form that the
17 department prescribes, and a duplicate of the statement must be filed by the employee with the employee's state
18 income tax return."
19

20 **Section 9.** Section 15-30-2507, MCA, is amended to read:

21 **"15-30-2507. Annual statement by employer.** (1) Every employer shall, on or before February 28 in
22 each year, file with the department a wage and tax statement for each employee in the form and summarizing
23 information as the department requires, including the total wages paid to the employee during the preceding
24 calendar year or any part of the calendar year and showing the total amount of the federal income tax deducted
25 and withheld from the wages and the total amount of the tax deducted and withheld from the wages under the
26 provisions of 15-30-2501 through ~~15-30-2509~~ 15-30-2508.

27 (2) The annual statement filed by an employer with respect to the wage payments reported constitutes
28 full compliance with the requirements of 15-30-2616 relating to the duties of information agents, and additional
29 information return is not required with respect to the wage payments."
30

1 **Section 10.** Section 15-30-2508, MCA, is amended to read:

2 **"15-30-2508. Withheld taxes held in trust for state.** Every employer who deducts and withholds any
3 amounts under the provisions of 15-30-2501 through ~~15-30-2509~~ 15-30-2508 shall hold the amounts in trust for
4 the state of Montana."

5

6 **Section 11.** Section 15-30-2536, MCA, is amended to read:

7 **"15-30-2536. Short title.** Sections 15-30-2536 through 15-30-2545 and 15-30-2547 may be cited as the
8 "Mineral Royalty Backup Withholding Act."

9

10 **Section 12.** Section 15-30-2537, MCA, is amended to read:

11 **"15-30-2537. Definitions.** As used in 15-30-2536 through 15-30-2545 and 15-30-2547, the following
12 definitions apply:

13 (1) "Mineral" has the meaning provided in 15-38-103.

14 (2) "Publicly traded partnership" means a publicly traded partnership, as defined in section 7704 of the
15 Internal Revenue Code, 26 U.S.C. 7704, that is not treated as a corporation.

16 (3) "Remitter" means an individual, entity, or trust that makes royalty payments to royalty owners.

17 (4) "Royalty owner" means a person or entity entitled to receive periodic payments for a nonworking
18 interest in the production of oil or gas or in the severance of other minerals from the mineral estate."

19

20 **Section 13.** Section 15-30-2539, MCA, is amended to read:

21 **"15-30-2539. Withholding -- no application under certain conditions.** (1) The provisions of
22 15-30-2536 through 15-30-2545 and 15-30-2547 do not apply to royalty payments made to a royalty owner if the
23 royalty owner is:

24 (a) the United States or an agency of the federal government, this state or a political subdivision of this
25 state, or another state or a political subdivision of another state;

26 (b) a federally recognized Indian tribe with respect to on-reservation oil and gas production pursuant to
27 a lease entered into under the Indian Mineral Leasing Act of 1938, 25 U.S.C. 396a through 396g;

28 (c) the United States as trustee for individual Indians;

29 (d) a publicly traded partnership;

30 (e) an organization that is exempt from taxation under 15-31-102; or

1 (f) the same person or entity as the remitter.

2 (2) (a) The provisions of 15-30-2536 through 15-30-2545 and15-30-2547 do not apply to a remitter that
3 produces less than 100,000 barrels of oil and less than 500 million cubic feet of gas annually. The department
4 shall determine a remitter's annual production of oil and gas based upon a 3-year rolling average of the remitter's
5 annual production as reported by the remitter to the Montana board of oil and gas conservation.

6 (b) Each producer that is exempted from withholding under subsection (2)(a) shall make an annual return
7 to report royalty payments that exceed the dollar amounts in subsection (3). The return must be made under rules
8 adopted by the department and be as nearly identical as possible to federal rules for internal revenue service form
9 1099 under section 6041, et seq., of the Internal Revenue Code, 26 U.S.C. 6041, et seq.

10 (c) Each year, a publicly traded partnership that is exempt from withholding under subsection (1)(d) shall
11 transmit to the department, in an electronic format approved by the department, each partner's U.S. department
12 of the treasury schedule K-1, form 1065 or 1065-B, as applicable, filed electronically for the year with the internal
13 revenue service.

14 (d) A royalty owner that is a publicly traded partnership or an organization that is exempt from taxation
15 under 15-31-102 shall report to the remitter and department under oath, on a form prescribed by the department,
16 all information necessary to establish that the remitter is not required under 15-30-2538 to withhold royalty
17 payments made to the partnership or organization.

18 (3) If the royalty payment made to a royalty owner subject to withholding under the provisions of
19 15-30-2536 through 15-30-2545 and 15-30-2547 is less than \$166 for the current withholding period or is less
20 than \$2,000 if the payment is annualized, then the department may grant a remitter's request to forego
21 withholding the tax from the royalty payment made to that royalty owner for the current withholding period or, if
22 applicable, the royalty payments for the annual period.

23 (4) The department may, by rule, establish minimum royalty amounts subject to withholding under the
24 provisions of 15-30-2536 through 15-30-2545 and 15-30-2547, other than for oil and gas production, if the
25 department determines that the withholding against the minimal amount of royalties is inefficient."
26

27 **Section 14.** Section 15-30-2540, MCA, is amended to read:

28 **"15-30-2540. Remitter liable for withholding taxes and statements ~~--- liability mitigation ---~~**
29 **sufficiency of mailing address.** (1) Each remitter is liable for the payment required by 15-30-2541, the amount
30 required to be deducted and withheld under 15-30-2536 through 15-30-2545 and 15-30-2547, and the annual

1 statements required by 15-30-2543 and 15-30-2544. The payments required by 15-30-2541 and the amounts
 2 required to be deducted and withheld, plus penalty and interest due, are a tax. With respect to the tax, the remitter
 3 is the taxpayer.

4 ~~(2) The officer of a corporation whose responsibility it is to collect, truthfully account for, and pay to the~~
 5 ~~state the amounts withheld from mineral royalty payments and who fails to pay the withholdings is Pursuant to~~
 6 ~~[sections 1 through 3], each responsible individual is individually liable to the state for the filing of statements, the~~
 7 ~~amounts withheld, the payment of tax, and the penalty and interest due on the amounts pursuant to 15-1-216.~~

8 ~~———— (3) (a) Subject to subsections (3)(b) and (6), each officer of the corporation is individually liable, along~~
 9 ~~with the corporation, for filing statements, to the extent that the officer has access to the requisite records, and~~
 10 ~~for unpaid taxes, penalties, and interest upon a determination that the officer:~~

11 ~~———— (i) possessed the responsibility to file statements and pay taxes on behalf of the corporation; and~~

12 ~~———— (ii) possessed the responsibility on behalf of the corporation for directing the filing of tax statements or~~
 13 ~~the payment of other corporate obligations and exercised that responsibility, resulting in the corporation's failure~~
 14 ~~to file statements required by 15-30-2536 through 15-30-2547 or to pay taxes due as required by 15-30-2536~~
 15 ~~through 15-30-2547.~~

16 ~~———— (b) If a corporate remitter violates the provisions of 15-30-2536 through 15-30-2547, the department shall~~
 17 ~~first apply the provisions of 15-30-2546 against the corporation. If the corporation fails to remedy the violation,~~
 18 ~~then the department shall apply the provisions of 15-30-2546 against each responsible corporate officer as~~
 19 ~~determined in subsections (3)(a) and (3)(c) of this section.~~

20 ~~———— (c) In determining which corporate officer is liable, the department is not limited to considering the~~
 21 ~~elements set forth in subsection (3)(a) to establish individual liability and may consider any other available~~
 22 ~~information.~~

23 ~~———— (4) In the case of a corporate bankruptcy, the liability of the individual remains unaffected by the~~
 24 ~~discharge of penalty and interest against the corporation. The individual remains liable for any statements and~~
 25 ~~the amount of taxes, penalties, and interest unpaid by the corporation.~~

26 ~~———— (5) Subject to subsection (6), for the purpose of determining liability for the filing of statements and the~~
 27 ~~payment of taxes, penalties, and interest owed under 15-30-2536 through 15-30-2547:~~

28 ~~———— (a) each partner of a partnership is jointly and severally liable, along with the partnership, for any~~
 29 ~~statements, taxes, penalties, and interest due while a partner;~~

30 ~~———— (b) each member of a limited liability company that is treated as a partnership or as a corporation for~~

1 income tax purposes is jointly and severally liable, along with the limited liability company, for any statements,
2 taxes, penalties, and interest due while a member;

3 ~~———(c) the member of a single-member limited liability company that is disregarded for income tax purposes~~
4 ~~is jointly and severally liable, along with the limited liability company, for any statements, taxes, penalties, and~~
5 ~~interest due while a member; and~~

6 ~~———(d) each manager of a manager-managed limited liability company is jointly and severally liable, along~~
7 ~~with the limited liability company, for any statements, taxes, penalties, and interest due while a manager.~~

8 ~~———(6) The liability of an individual described in subsection (3) or (5) for taxes, penalties, and interest is~~
9 ~~released if and to the extent that the amount required to be deducted and withheld under 15-30-2536 through~~
10 ~~15-30-2547 is deposited in a separate account that is:~~

11 ~~———(a) established in a bank, as defined in 32-1-102, located in Montana;~~

12 ~~———(b) designated as a special fund in trust for the state; and~~

13 ~~———(c) payable to the department.~~

14 ~~———(7) If the remitter fails to deduct and withhold the amounts specified in 15-30-2538 and the tax, against~~
15 ~~which the deducted and withheld amounts would have been credited, is paid, the amounts required to be~~
16 ~~deducted and withheld may not be collected from the remitter."~~

17

18 **Section 15.** Section 15-30-2542, MCA, is amended to read:

19 **"15-30-2542. Amount of royalty payment withheld considered taxes collected.** The amounts
20 deducted and withheld from royalty payments are considered taxes collected under the provisions of 15-30-2536
21 through 15-30-2545 and 15-30-2547. A royalty owner does not have a right of action against the remitter for any
22 amount deducted and withheld from the royalty owner's royalty and paid to the state in compliance or intended
23 compliance with 15-30-2536 through 15-30-2545 and 15-30-2547. The amounts deducted and withheld and paid
24 to the state in compliance or intended compliance with 15-30-2536 through 15-30-2545 and 15-30-2547 are not
25 subject to the provisions of 82-10-103."

26

27 **Section 16.** Section 15-30-2544, MCA, is amended to read:

28 **"15-30-2544. Remitter to furnish annual statement to department.** (1) On or before February 28 of
29 each year, each remitter shall file with the department a royalty and tax statement, on a form provided by the
30 department, that shows the total royalties paid to each royalty owner subject to withholding during the preceding

1 calendar year or any portion of the preceding calendar year and the total amount of the tax deducted and withheld
2 from the royalty payments under the provisions of 15-30-2536 through 15-30-2545 and 15-30-2547 for the same
3 period.

4 (2) The annual statement filed by a remitter under this section complies with the requirements of
5 15-30-2616 relating to the duties of information agents. An additional information return is not required with
6 respect to the royalty payments.

7 (3) The department shall make the forms described in 15-30-2541 and this section available no later than
8 November 15, 2007."

9

10 **Section 17.** Section 15-30-2545, MCA, is amended to read:

11 "**15-30-2545. Withheld taxes held in trust for state.** Each remitter that deducts and withholds the
12 amounts under the provisions of 15-30-2536 through 15-30-2545 and 15-30-2547 shall hold the amounts in trust
13 for the state."

14

15 **Section 18.** Section 15-30-2547, MCA, is amended to read:

16 "**15-30-2547. Rulemaking authority.** The department shall adopt rules that may be necessary to
17 administer and enforce the provisions of 15-30-2536 through 15-30-2545 and 15-30-2547."

18

19 **Section 19.** Section 15-53-130, MCA, is amended to read:

20 "**15-53-130. (Temporary) Imposition of retail telecommunications excise tax -- rate.** (1) An excise
21 tax of 3.75% is imposed on the sales price of retail telecommunications services. Subject to 15-53-131 and
22 15-53-132, the tax is imposed on the purchaser and must be collected by the telecommunications services
23 provider.

24 (2) Pursuant to [sections 1 through 3], each responsible individual is individually liable to the state for
25 the filing of statements, the amounts withheld, the payment of tax, and the penalty and interest due on the
26 amounts pursuant to 15-1-216. (Terminates on occurrence of contingency--sec. 8, Ch. 515, L. 2003.)

27 **15-53-130. (Effective on occurrence of contingency) Imposition of retail telecommunications**
28 **excise tax -- rate.** (1) An excise tax of 3.75% is imposed on the sales price of retail telecommunications services.
29 The tax is imposed on the purchaser and must be collected by the telecommunications services provider.

30 (2) Pursuant to [sections 1 through 3], each responsible individual is individually liable to the state for

1 the filing of statements, the amounts withheld, the payment of tax, and the penalty and interest due on the
2 amounts pursuant to 15-1-216."

3
4 **NEW SECTION. Section 20. Repealer.** The following sections of the Montana Code Annotated are
5 repealed:

6 15-30-2509. Violations by employer -- penalties, interest, and remedies.

7 15-30-2546. Violations by remitter -- penalties -- interest -- remedies.

8 15-53-147. Penalty and interest for delinquency -- waiver.

9 15-53-148. Estimation of tax upon failure to file return -- notice.

10
11 **NEW SECTION. Section 21. Codification instruction.** [Sections 1 through 3] are intended to be
12 codified as an integral part of Title 15, chapter 1, part 2, and the provisions of Title 15, chapter 1, part 2, apply
13 to [sections 1 through 3].

14
15 **NEW SECTION. Section 22. Saving clause.** [This act] does not affect rights and duties that matured,
16 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

17
18 **NEW SECTION. Section 23. Applicability.** [This act] applies to tax years beginning after December
19 31, 2013.

20 - END -