

HOUSE BILL NO. 331

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR REVOCATION OF CERTAIN PROPERTY TAX EXEMPTIONS; IMPOSING A LIMIT ON THE AMOUNT OF WAGES, SALARY, OR OTHER COMPENSATION THAT A TAX-EXEMPT EMPLOYER MAY PAY CURRENT AND FORMER OFFICERS, DIRECTORS, TRUSTEES, OR KEY EMPLOYEES WHILE RECEIVING A PROPERTY TAX EXEMPTION; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING RULEMAKING AUTHORITY; AMENDING ~~SECTION~~ SECTIONS 15-10-420 AND 15-16-203, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Revocation of property tax exemption -- compensation limit. (1) Subject

to subsection (2), the department shall revoke property tax exemptions granted to an organization under the provisions of 15-6-201(1)(b), (1)(d), (1)(g) through (1)(i), (1)(k), (1)(l), (1)(n), and (1)(o), 15-6-203, 15-6-209, and 15-6-221 when the organization or affiliate of an organization pays any current and former officer, director, trustee, or key employee more than \$250,000 in wages, salary, and other compensation for services performed in the state during any calendar year.

(2) An organization that satisfies the criteria in subsection (1) shall report the transaction by March 31 following the end of the calendar year using a form prescribed by the department. The department may grant a reasonable extension of time, not to exceed 180 days, whenever, in its judgment, good cause exists.

(3) The department shall administer the provisions of this section by examining any document in possession of the department. The department may also require an organization to submit:

- (a) a copy of internal revenue service form 990 and related schedules or any equivalent information return of an organization that is filed with the internal revenue service;
- (b) a form created by the department that is as identical as possible to the federal income tax form in subsection (3)(a) and related schedules;
- (c) a copy of wage withholding statements; and
- (d) any further information considered necessary by the department as established by rule for the purpose of administering this section.

1 (4) If revocation of an exemption is based on a report submitted under subsection (2), the property must
2 be assessed at 100% of its taxable value for 1 year beginning on January 1 following the year for which the
3 revocation determination is made by the department.

4 (5) If an organization fails to report under subsection (2):

5 (a) the department shall revoke property tax exemptions granted to the organization;

6 (b) the property must be assessed at 100% of its taxable value for 2 years beginning on January 1
7 following the year for which the property tax exemption is revoked;

8 (c) the organization shall reapply for the previously granted exemptions after expiration of the revocation
9 period; and

10 (d) in addition to revocation, the department may assess property retroactively under the provisions of
11 15-8-601.

12 (6) A taxpayer aggrieved by a determination made by the department has the right to the review
13 procedures in 15-1-211.

14 (7) The department may adopt rules that are necessary to implement and administer the provisions of
15 this section.

16 (8) As used in this section, the following definitions apply:

17 (a) "Affiliate" includes any organization of which more than 50% of the ownership is held by an
18 organization with a property tax exemption listed in subsection (1).

19 (b) "Director" or "trustee" means a member of the organization's governing body that has voting rights.
20 A director or trustee that served at any time during the organization's tax year is considered a current director or
21 trustee. A member of an advisory board that does not exercise any governance authority over the organization
22 is not a director or trustee.

23 (c) "Former" means a position that was held during the 5-year period of time before the organization's
24 current tax year.

25 (d) (i) "Key employee" means a person that:

26 (i)(A) has responsibilities, powers, or influence over the organization as a whole that is similar to that held
27 by an officer, director, or trustee;

28 (i)(B) when compared to the organization as a whole, manages a discrete segment or activity that
29 represents 10% or more of the activities, assets, income, or expenses of the organization; or

30 (i)(C) has or shares the ability to control or determine 10% or more of the organization's capital

1 expenditures, operating budget, or compensation for employees.

2 (II) THE TERM DOES NOT INCLUDE A PHYSICIAN WHO PROVIDES SERVICES TO PATIENTS.

3 (e) "Officer" means a person elected or appointed to manage the organization's daily operations. An
4 officer that served at any time during the organization's tax year is considered a current officer. The officers of
5 an organization are determined by reference to its organizing document, bylaws, or resolutions of its governing
6 body and at a minimum include officers that are required by law.

7 (f) "Organization" means the tax-exempt organization, including any entity, owner, or charity with a
8 property tax exemption.

9 (g) "Wages" has the meaning provided by 15-30-2501.

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11 **SECTION 2. SECTION 15-10-420, MCA, IS AMENDED TO READ:**

12 **"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a
13 governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount
14 of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3
15 years. The maximum number of mills that a governmental entity may impose is established by calculating the
16 number of mills required to generate the amount of property tax actually assessed in the governmental unit in the
17 prior year based on the current year taxable value, less the current year's newly taxable value, plus one-half of
18 the average rate of inflation for the prior 3 years.

19 (b) A governmental entity that does not impose the maximum number of mills authorized under
20 subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between
21 the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority
22 carried forward may be imposed in a subsequent tax year.

23 (c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of
24 inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using
25 the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

26 (2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional
27 levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly
28 taxable property.

29 (3) (a) For purposes of this section, newly taxable property includes:

30 (i) annexation of real property and improvements into a taxing unit;

- 1 (ii) construction, expansion, or remodeling of improvements;
- 2 (iii) transfer of property into a taxing unit;
- 3 (iv) subdivision of real property; and
- 4 (v) transfer of property from tax-exempt to taxable status.
- 5 (b) Newly taxable property does not include:
- 6 (i) an increase in value that arises because of an increase in the incremental value within a tax increment
- 7 financing district; or
- 8 (ii) property for which the property tax exemption is revoked pursuant to [section 1].
- 9 (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the
- 10 release of taxable value from the incremental taxable value of a tax increment financing district because of:
- 11 (i) a change in the boundary of a tax increment financing district;
- 12 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or
- 13 (iii) the termination of a tax increment financing district.
- 14 (b) If a tax increment financing district terminates prior to the certification of taxable values as required
- 15 in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment
- 16 financing district terminates. If a tax increment financing district terminates after the certification of taxable values
- 17 as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.
- 18 (c) For the purpose of subsection (3)(a)(ii), the value of newly taxable class four property that was
- 19 constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current
- 20 year market value of that property less the previous year market value of that property.
- 21 (d) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real
- 22 property that results in the property being taxable as class four property under 15-6-134 or as nonqualified
- 23 agricultural land as described in 15-6-133(1)(c).
- 24 (5) Subject to subsection (8), subsection (1)(a) does not apply to:
- 25 (a) school district levies established in Title 20; or
- 26 (b) a mill levy imposed for a newly created regional resource authority.
- 27 (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received
- 28 under 15-6-131 and 15-6-132.
- 29 (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity:
- 30 (a) may increase the number of mills to account for a decrease in reimbursements; and

1 (b) may not increase the number of mills to account for a loss of tax base because of legislative action
2 that is reimbursed under the provisions of 15-1-121(7).

3 (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes
4 of 15-10-108, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the
5 department may not exceed the mill levy limits established in those sections. The mill calculation must be
6 established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the
7 calculation must be rounded up to the nearest tenth of a mill.

8 (9) (a) The provisions of subsection (1) do not prevent or restrict:

9 (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

10 (ii) a levy to repay taxes paid under protest as provided in 15-1-402;

11 (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;

12 (iv) a levy for the support of a study commission under 7-3-184;

13 (v) a levy for the support of a newly established regional resource authority;

14 (vi) the portion that is the amount in excess of the base contribution of a governmental entity's property
15 tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703; or

16 (vii) a levy for reimbursing a county for costs incurred in transferring property records to an adjoining
17 county under 7-2-2807 upon relocation of a county boundary.

18 (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes
19 actually assessed in a subsequent year.

20 (10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402,
21 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport
22 authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating
23 funds by a county or municipality during that time.

24 (11) The department may adopt rules to implement this section. The rules may include a method for
25 calculating the percentage of change in valuation for purposes of determining the elimination of property, new
26 improvements, or newly taxable value in a governmental unit."

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28 **Section 3.** Section 15-16-203, MCA, is amended to read:

29 **"15-16-203. (Temporary) Assessment of property previously exempt.** (1) Subject to [section 1],

30 15-6-231(3), and 15-10-420, real property or improvements exempt from taxation under Title 15, chapter 6, that

1 during a tax year become subject to taxation must be assessed and taxed from the date of change from a
2 nontaxable status to a taxable status.

3 (2) As provided in subsection (3), the county treasurer shall adjust the tax that would have been due and
4 payable for the current year on the property under 15-16-102 if the property was not exempt.

5 (3) To determine the amount of tax due for previously exempt property, the county treasurer shall multiply
6 the amount of tax levied and assessed on the original taxable value of the property for the year by the ratio that
7 the number of days in the year that the property will be in taxable status bears to 365.

8 (4) If the property has not been assessed and taxed during the taxable year because of exemption, the
9 department shall prepare a special assessment for the property and the county treasurer shall determine the
10 amount of taxes that would have been due under subsection (2).

11 (5) Upon determining the amount of tax due, the county treasurer shall notify the person to whom the
12 tax is assessed, in the same manner as notification is provided under 15-16-101(2), of the amount due and the
13 date or dates on which the taxes due are payable as provided in 15-16-102. (Terminates December 31,
14 2021--sec. 8, Ch. 372, L. 2015.)

15 **15-16-203. (Effective January 1, 2022) Assessment of property previously exempt.** (1) Subject to
16 [section 1] and 15-10-420, real property or improvements exempt from taxation under Title 15, chapter 6, that
17 during a tax year become the property of a person subject to taxation must be assessed and taxed from the date
18 of change from a nontaxable status to a taxable status.

19 (2) As provided in subsection (3), the county treasurer shall adjust the tax that would have been due and
20 payable for the current year on the property under 15-16-102 if the property was not exempt.

21 (3) To determine the amount of tax due for previously exempt property, the county treasurer shall multiply
22 the amount of tax levied and assessed on the original taxable value of the property for the year by the ratio that
23 the number of days in the year that the property will be in taxable status bears to 365.

24 (4) If the property has not been assessed and taxed during the taxable year because of exemption, the
25 department shall prepare a special assessment for the property and the county treasurer shall determine the
26 amount of taxes that would have been due under subsection (2).

27 (5) Upon determining the amount of tax due, the county treasurer shall notify the person to whom the
28 tax is assessed, in the same manner as notification is provided under 15-16-101(2), of the amount due and the
29 date or dates on which the taxes due are payable as provided in 15-16-102."

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