

HOUSE BILL NO. 331

INTRODUCED BY M. REGIER

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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 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) "Key employee" means a person that:

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

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

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

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10 **Section 2.** Section 15-16-203, MCA, is amended to read:

11 **"15-16-203. (Temporary) Assessment of property previously exempt.** (1) Subject to [section 1],  
12 15-6-231(3), and 15-10-420, real property or improvements exempt from taxation under Title 15, chapter 6, that  
13 during a tax year become subject to taxation must be assessed and taxed from the date of change from a  
14 nontaxable status to a taxable status.

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

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

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

23 (5) Upon determining the amount of tax due, the county treasurer shall notify the person to whom the  
24 tax is assessed, in the same manner as notification is provided under 15-16-101(2), of the amount due and the  
25 date or dates on which the taxes due are payable as provided in 15-16-102. (Terminates December 31,  
26 2021--sec. 8, Ch. 372, L. 2015.)

27 **15-16-203. (Effective January 1, 2022) Assessment of property previously exempt.** (1) Subject to  
28 [section 1] and 15-10-420, real property or improvements exempt from taxation under Title 15, chapter 6, that  
29 during a tax year become the property of a person subject to taxation must be assessed and taxed from the date  
30 of change from a nontaxable status to a taxable status.

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

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

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

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

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13 NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an  
14 integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to [section 1].

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16 NEW SECTION. **Section 4. Applicability.** [This act] applies to wages, salary, and other compensation  
17 for services performed in the state that is paid by an organization for tax years beginning after December 31,  
18 2017.

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