

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT INTANGIBLE PERSONAL PROPERTY IS
5 SUBJECT TO PROPERTY TAXATION; PROVIDING A TRANSITION SECTION FOR DETERMINING WHEN
6 INTANGIBLE PERSONAL PROPERTY IS TREATED AS NEWLY TAXABLE PROPERTY; AMENDING
7 SECTIONS 15-1-101 AND 15-23-303, MCA; REPEALING SECTION 15-6-218, MCA; AND PROVIDING AN
8 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 **Section 1.** Section 15-1-101, MCA, is amended to read:

13 **"15-1-101. Definitions.** (1) Except as otherwise specifically provided, when terms mentioned in this
14 section are used in connection with taxation, they are defined in the following manner:

15 (a) The term "agricultural" refers to:
16 (i) the production of food, feed, and fiber commodities, livestock and poultry, bees, biological control
17 insects, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or
18 produced for commercial purposes; and

19 (ii) the raising of domestic animals and wildlife in domestication or a captive environment.

20 (b) The term "assessed value" means the value of property as defined in 15-8-111.

21 (c) The term "average wholesale value" means the value to a dealer prior to reconditioning and the profit
22 margin shown in national appraisal guides and manuals or the valuation schedules of the department.

23 (d) (i) The term "commercial", when used to describe property, means property used or owned by a
24 business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, including
25 industrial property defined in subsection (1)(j), and excluding property described in subsection (1)(d)(ii).

26 (ii) The following types of property are not commercial:

- 27 (A) agricultural lands;
- 28 (B) timberlands and forest lands;
- 29 (C) single-family residences and ancillary improvements and improvements necessary to the function
30 of a bona fide farm, ranch, or stock operation;

1 (D) mobile homes and manufactured homes used exclusively as a residence except when held by a
2 distributor or dealer as stock in trade; and

3 (E) all property described in 15-6-135.

4 (e) The term "comparable property" means property that:

5 (i) has similar use, function, and utility;

6 (ii) is influenced by the same set of economic trends and physical, governmental, and social factors; and

7 (iii) has the potential of a similar highest and best use.

8 (f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

9 (g) (i) "Department", except as provided in subsection (1)(g)(ii), means the department of revenue
10 provided for in 2-15-1301.

11 (ii) In chapters 70 and 71, department means the department of transportation provided for in 2-15-2501.

12 (h) The terms "gas" and "natural gas" are synonymous and mean gas as defined in 82-1-111(2). The
13 terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other natural gas
14 found in any coal formation.

15 (i) The term "improvements" includes all buildings, structures, fences, and improvements situated upon,
16 erected upon, or affixed to land. When the department determines that the permanency of location of a mobile
17 home, manufactured home, or housetrailer has been established, the mobile home, manufactured home, or
18 housetrailer is presumed to be an improvement to real property. A mobile home, manufactured home, or
19 housetrailer may be determined to be permanently located only when it is attached to a foundation that cannot
20 feasibly be relocated and only when the wheels are removed.

21 (j) "Industrial property" for purposes of this section includes all land used for industrial purposes,
22 improvements, and buildings used to house the industrial process and all storage facilities. Under this section,
23 industrial property does not include personal property classified and taxed under 15-6-135 or 15-6-138.

24 (k) The term "intangible personal property" means personal property that is not tangible personal
25 property and that:

26 (i) has no intrinsic value but is the representative or evidence of value, including but not limited to
27 certificates of stock, bonds, promissory notes, licenses, copyrights, patents, trademarks, contracts, software, and
28 franchises; or

29 (ii) lacks physical existence, including but not limited to goodwill.

30 (~~(k)~~(l) The term "leasehold improvements" means improvements to mobile homes and mobile homes

1 located on land owned by another person. This property is assessed under the appropriate classification, and
 2 the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on leasehold
 3 improvements are a lien only on the leasehold improvements.

4 ~~(h)~~(m) The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas,
 5 bison, ostriches, rheas, emus, and domestic ungulates.

6 ~~(m)~~(n) (i) The term "manufactured home" means a residential dwelling built in a factory in accordance
 7 with the United States department of housing and urban development code and the federal Manufactured Home
 8 Construction and Safety Standards.

9 (ii) A manufactured home does not include a mobile home, as defined in subsection ~~(4)~~~~(o)~~ (1)~~(p)~~, or a
 10 mobile home or housetrailer constructed before the federal Manufactured Home Construction and Safety
 11 Standards went into effect on June 15, 1976.

12 ~~(n)~~(o) The term "market value" means the value of property as provided in 15-8-111.

13 ~~(o)~~(p) The term "mobile home" means forms of housing known as "trailers", "housetrailer", or "trailer
 14 coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an
 15 independent power connected to them, or any trailer, housetrailer, or trailer coach up to 8 feet in width or 45 feet
 16 in length used as a principal residence.

17 ~~(p)~~(q) The term "personal property" includes intangible personal property and everything that is the
 18 subject of ownership but that is not included within the meaning of the terms "real estate" and "improvements"
 19 and "~~intangible personal property~~" as that term is defined in 15-6-218.

20 ~~(q)~~(r) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in
 21 domestication to produce food or feathers.

22 ~~(r)~~(s) The term "property" includes money, credits, bonds, stocks, franchises, and all other matters and
 23 things, real, personal, and mixed, capable of private ownership. This definition may not be construed to authorize
 24 the taxation of the stocks of a company or corporation when the property of the company or corporation
 25 represented by the stocks is within the state and has been taxed.

26 ~~(s)~~(t) The term "real estate" includes:

27 (i) the possession of, claim to, ownership of, or right to the possession of land;

28 (ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and Title
 29 15, chapter 23, part 8;

30 (iii) all timber belonging to individuals or corporations growing or being on the lands of the United States;

1 and

2 (iv) all rights and privileges appertaining to mines, minerals, quarries, and timber.

3 ~~(t)~~(u) "Recreational" means hunting, fishing, swimming, boating, waterskiing, camping, biking, hiking,
4 and winter sports, including but not limited to skiing, skating, and snowmobiling.

5 ~~(t)~~(v) "Research and development firm" means an entity incorporated under the laws of this state or a
6 foreign corporation authorized to do business in this state whose principal purpose is to engage in theoretical
7 analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific
8 and technical nature into practical application for experimental and demonstration purposes, including the
9 experimental production and testing of models, devices, equipment, materials, and processes.

10 ~~(v)~~(w) The term "stock in trade" means any mobile home, manufactured home, or housetrailer that is
11 listed by the dealer as inventory and that is offered for sale, is unoccupied, and is not located on a permanent
12 foundation. Inventory does not have to be located at the business location of a dealer or a distributor.

13 ~~(w)~~(x) The term "taxable value" means the market value multiplied by the classification tax rate as
14 provided for in Title 15, chapter 6, part 1.

15 ~~(x)~~(y) The term "taxes" in relation to property under 15-6-133, 15-6-134, or 15-6-143 is the amount owed
16 by a taxpayer that is the market value multiplied by the tax rate multiplied by the applicable mills, exclusive of local
17 fees and assessments.

18 (2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city,
19 incorporated town, township, school district, irrigation district, or drainage district or a person, persons, or
20 organized body authorized by law to establish tax levies for the purpose of raising public revenue.

21 (3) The term "state board" or "board" when used without other qualification means the state tax appeal
22 board."

23

24 **Section 2.** Section 15-23-303, MCA, is amended to read:

25 **"15-23-303. Assessment of property -- apportionment to counties.** The department shall assess all
26 property described in 15-23-301, but franchises granted by the United States may not be assessed. The value
27 of property for assessment purposes must be determined upon factors that the department considers proper."

28

29 NEW SECTION. **Section 3. Repealer.** The following section of the Montana Code Annotated is
30 repealed:

1 15-6-218. Intangible personal property exemption.

2

3 NEW SECTION. **Section 4. Transition.** Intangible personal property that becomes subject to taxation
4 under the provisions of [this act] on or before January 1, 2020, is not treated as newly taxable property under
5 15-10-420.

6

7 NEW SECTION. **Section 5. Saving clause.** [This act] does not affect rights and duties that matured,
8 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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10 NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

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12 NEW SECTION. **Section 7. Applicability.** [This act] applies to property tax years beginning after
13 December 31, 2019.

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