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SENATE BILL NO. 362

INTRODUCED BY S. MORIGEAU

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROPERTY TAX REFUNDS; ~~ELIMINATING REVISING~~ THE TIME LIMIT TO CLAIM A REFUND RESULTING FROM AN ERRONEOUS ASSESSMENT OF PROPERTY TAXES; AMENDING SECTIONS 15-8-601 AND 15-16-603, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

**Section 1.** Section 15-8-601, MCA, is amended to read:

**"15-8-601. Assessment revision -- conference for review.** (1) (a) Except as provided in subsection (1)(b), whenever the department discovers that any taxable property of any person has in any year escaped assessment, been erroneously assessed, or been omitted from taxation, the department may assess the property provided that the property is under the ownership or control of the same person who owned or controlled it at the time it escaped assessment, was erroneously assessed, or was omitted from taxation. All revised assessments must be made within 10 years after the end of the calendar year in which the original assessment was or should have been made, unless the department determines a person was assessed an amount that was greater than the correct amount of the assessment. ~~There is no~~ The time limit for a revised assessment if it that results in a refund to any person is determined pursuant to 15-16-603.

(b) Within the time limits set by 15-23-116, whenever the department discovers property subject to assessment under Title 15, chapter 23, that has escaped assessment, been erroneously assessed, or been omitted from taxation, the department may issue a revised assessment to the person, firm, or corporation who owned the property at the time it escaped assessment, was erroneously assessed, or was omitted from taxation, regardless of the ownership of the property at the time of the department's revised assessment.

(c) If an erroneous assessment is due to a calculation error by the department, the department shall revise the assessment of like properties that were also erroneously assessed using the same calculation.

(2) When the department proposes to revise the statement reported by the taxpayer under 15-8-

1 301, the action of the department is subject to the notice and conference provisions of this section. Revised  
2 assessments of centrally assessed property and industrial property that is assessed annually by the department  
3 are subject to mediation pursuant to 15-1-212.

4 (3) (a) Notice of revised assessment pursuant to this section must be made by the department by  
5 postpaid letter addressed to the person interested within 10 days after the revised assessment has been made.  
6 If the property is locally assessed, the notice must include the opportunity for a conference on the matter, at the  
7 request of the person interested, within 30 days after notice is given.

8 (b) An assessment revision review conference is not a contested case as defined in the Montana  
9 Administrative Procedure Act. The department shall keep minutes in writing of each assessment revision review  
10 conference, and the minutes are public records.

11 (c) Following an assessment revision review conference or expiration of the opportunity for a  
12 conference, the department shall order an assessment that it considers proper. Any party to the conference  
13 aggrieved by the action of the department or a taxpayer who does not request a conference may appeal to the  
14 county tax appeal board within 30 days of receipt of the revised assessment or the department's assessment  
15 made pursuant to the conference.

16 (4) The department shall enter in the property tax record all changes and corrections made by it."  
17

18 **Section 2.** Section 15-16-603, MCA, is amended to read:

19 **"15-16-603. Refund of taxes -- limitations on refunds.** (1) Subject to the provisions in subsections  
20 (2) and (3), a board of county commissioners shall order a refund:

21 (a) on a tax, penalty, interest, or cost paid more than once or erroneously or illegally collected if an  
22 appeal pursuant to 15-1-402 was not available;

23 (b) on a tax paid for which a refund is allowed under 15-16-612 or 15-16-613;

24 (c) on a tax, penalty, or interest collected as a result of an error in the description or location of real  
25 property or improvements or for duplicate taxes paid as determined by the department of revenue;

26 (d) on net or gross proceeds tax, centrally assessed property tax, penalty, or interest when the  
27 department of revenue notifies the board of county commissioners of an assessment revision completed  
28 pursuant to 15-8-601;

**Amendment - 1st Reading-white - Requested by: Shane Morigeau - (S) Taxation**

- 2023

68th Legislature 2023

Drafter: Jaret Coles, 406-444-4022

SB0362.001.001

1 (e) upon entry of a decision either by the district court or by the Montana tax appeal board under  
2 15-2-306 that has not been appealed to a higher court; or

3 (f) on a decision that a refund is payable as a result of a taxpayer prevailing in a motor vehicle tax  
4 or fee proceeding under 15-15-201.

5 (2) The taxpayer shall prove that a refund is due under subsection (1)(a) or (1)(b).

6 (3) (a) A refund may not be granted under subsection (1)(a) or (1)(b) unless the taxpayer or a  
7 representative of the taxpayer files a written claim with the board of county commissioners ~~within 10 years after~~  
8 ~~the date when the second half of the taxes would have become delinquent if the taxes had not been paid~~ within  
9 15 years after the date when the second half of the taxes would have become delinquent if the taxes had not  
10 been paid, unless the refund is less than \$10,000. There is no time limit for a written claim under this  
11 subsection (3)(a) if the amount of the refund is less than \$10,000.

12 ~~(b) The refund required under subsection (1)(c) must be made for 5 tax years or for the duration of the~~  
13 ~~error, whichever period is shorter.~~

14 ~~(e)(b) The refund required under subsection (1)(c) must be made for 10 tax years or for the duration~~  
15 ~~of the error, whichever period is shorter.~~

16 (c) A refund may not be made under subsection (1)(c) unless the taxpayer allowed the department  
17 of revenue access to the taxpayer's property for the purposes of appraising the property."

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19 NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 2023.

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21 NEW SECTION. Section 4. Applicability. [This act] applies to requests for refunds received on or  
22 after [the effective date of this act].

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- END -