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Revenue and Transportation Interim Committee

65th Montana Legislature

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TO: Committee Members

FROM: Jaret Coles, Staff Attorney

RE: Administrative Rule Activity

DATE: May 1, 2018

Department of Revenue

Proposal and Adoption Notices are available on the Internet:

Department of Revenue notices can be found on the Secretary of State's website at <http://www.mtrules.org/>. Under the Montana Administrative Register heading, type the number "42" in the "Search by Notice No." box and click on the "Go" icon.

Notice of Proposed Rules:

Oil and Gas Tax Rates. [MAR 42-2-993](#). A public hearing will be held on May 22, 2018, at 11 a.m. in the Third Floor Reception Conference Room, Mitchell Building, Helena. The public comment period ends on June 1, 2018. The Department proposes to amend two rules. One of the proposed amendments corrects a reference to a subchapter instead of the full chapter. The other proposed amendment adds a second tax rate table to reflect tax rate changes that were enacted by the Montana Board of Oil and Gas Conservation effective on or after October 1, 2016. The changes amount to a .04 percent increase over the rates shown in the previous table that were in effect through September 30, 2016.

Notice of Adopted Rules:

Tax Administration -- Office of Dispute Resolution (ODR) -- Senate Bill No. 137. [MAR 42-2-988](#). Adopted March 20, 2018. No members of the public appeared at the hearing and no written comments were received. The Department amended five rules. The amendments implement [Senate Bill No. 137 \(2017\)](#), which revised taxpayer dispute resolution procedures to allow taxpayers the right to bypass the Department's Office of Dispute Resolution (ODR) process and directly appeal to the Montana Tax Appeal Board.

Income Tax -- Pension and Annuity Income Exclusions, Dependent Exemptions, and Medical Care Savings Accounts -- House Bill No. 175. [MAR 42-2-989](#). Adopted April 17, 2018. No members of the public appeared at the hearing and no written comments were received. The Department amended seven rules. Three of the amendments update statutory references, describe the form that is used to waive a net operating loss, and adopt the Internal Revenue Code support test for determining when a person is a qualifying relative for purposes of claiming an income tax exemption. Four of the proposed amendments implement [House Bill No. 175 \(2017\)](#), which revised the tax exemptions and eligible withdrawals in the Montana medical care savings account (MSA) laws.

Withholding Taxes -- House Bill No. 63. [MAR 42-2-990](#). Adopted April 17, 2018. No members of the public appeared at the hearing and no written comments were received. The Department amended five rules. The amendments implement [House Bill No. 63 \(2017\)](#), which revised the due date for filing the annual royalty and tax statement provided in [15-30-2544](#), MCA. As a result of the new legislation, Form RW-3, Montana Annual Mineral Royalty Withholding Tax Reconciliation, is due on or before January 31 instead of February 28. In addition, one amendment adds new language to provide the calculation that is required for allocating mineral royalty withholdings between owners of a pass-through entity.

Income Tax -- Apportionment and Allocation of Income Reported by Pass-Through Entities and Guaranteed Payments to Individual Partners -- House Bill No. 511. [MAR 42-2-991](#). Adopted April 17, 2018. No members of the public appeared at the hearing and no written comments were received. The Department adopted two rules and amended two rules. One rule provides guidance on how guaranteed payments that are made to an individual are sourced to the state. The amendments implement [House Bill No. 511 \(2017\)](#), which changed the term "business income" to "apportionable income," and the term "nonbusiness income" to "nonapportionable income."

Department of Transportation

Proposal and Adoption Notices are available on the Internet:

Department of Transportation notices can be found on the Secretary of State's website at <http://www.mtrules.org/>. Under the Montana Administrative Register heading, type the number "18" in the "Search by Notice No." box and click on the "Go" icon.

Notice of Proposed Rules:

Motor Carrier Services Safety Requirements. [MAR 18-168](#). No public hearing is contemplated and the Department of Transportation proposes to amend two rules. The amendments restore the definitions of "farm vehicle" and "farmer" to definitions that were used last year.

Outdoor Advertising Control. [MAR 18-167](#). No public hearing is contemplated and the Transportation Commission proposes to amend one rule regarding community welcome signs along MDT-controlled routes which serve as entry points into those areas. The proposed amendments will require the local government to obtain a specific "welcome to" sign permit which will allow placement of welcome to signs.

Notice of Adopted Rules:

Motor Fuels Tax Collection and International Fuel Tax Agreement (IFTA). [MAR 18-166](#). Adopted March 6, 2018. The Department of Transportation adopted one rule and amended two rules. The new rule establishes a notice and hearing procedure for assessment actions and other license and permit enforcement actions. The amendments revise definitions to define terms used in the proposed new rule while also stating the bond requirements for an IFTA licenses.

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