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Revenue Interim Committee

66th Montana Legislature

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TO: Committee Members

FROM: Jaret Coles, Staff Attorney

RE: Administrative Rule Activity

DATE: November 8, 2019

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:

Property Tax -- Trended Depreciation Schedules for Valuing Personal Property. [MAR 42-1007.](#)
A public hearing will be held on November 13, 2019, at 11:30 a.m. in the Third Floor Reception Conference Room, Mitchell Building, Helena. The public comment period ends on November 20, 2019. The Department proposes to amend four rules. One of the proposed amendments addresses revisions to personal property valuation methodologies when a value is not available through national publications. Another proposed amendment is housekeeping in nature. The last two proposed amendments incorporate by reference personal property depreciation schedules and trend tables that are on the Department's web page for both equipment and industrial machinery, effective January 1, 2020.

Staff Comment: Having an administrative rule hearing before adopting material by reference is required by the [Montana Administrative Procedure Act](#). Section [2-4-307\(3\)\(a\)](#), MCA, provides that the publication must be in existence at the time that the agency's notice of proposed rulemaking, must be available to the public for comment, through either publication in the register or publication in an electronic format on the agency's web page, and may not be altered between the time of publication of the notice of proposed rulemaking and the publication of the

notice of adoption by the agency proposing the rule unless the alteration is required in order to respond to comments in the rulemaking record of the adopting agency. In order to comply with this provision, the schedules and trend tables that are updated on a yearly basis will need to be updated by an administrative rule hearing each time new schedules and trend tables are changed on the web page. Staff was informed by the Department that an administrative rule hearing will be held each time new schedules and trend tables are proposed on the web page to reflect the current year. Staff also verified that a 24-page document containing proposed personal property depreciation schedules and trend tables was on the [Department's web page](#) and easily available from the home web page. The document is attached to this rule review for reference. Lastly, staff is aware of a 1986 First Judicial District Court order that requires the Department to publish trend tables annually, but staff has not been able to obtain the 33-year-old order at this time.¹ Presumably incorporation by reference would satisfy a court order that was in place before the internet was invented.

Notice of Adopted Rules:

None (as of October 18, 2019, publication date).

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¹ See Montana Administrative Register Notice 42-2-776, pp. 1412-1437 (9/20/2007), available at <http://www.mtrules.org/gateway/ShowNoticeFile.asp?TID=860> ("The First Judicial District Court indicated in 1986 that the department must publish these trend tables annually and these amendments are in compliance with that order").