



GOVERNOR GREG GIANFORTE
DIRECTOR BRENDAN BEATTY

MEMORANDUM

TO: Revenue Interim Committee
FROM: Brendan Beatty, Director
DATE: August 26, 2022
SUBJECT: 2023 Legislative Proposals

The following is a list of the Department of Revenue's (Department) proposed legislation that has been approved through the Executive Planning Process/Office of Budget and Program Planning (OBPP) for introduction to the 2023 Legislature. The Department requests the committee review and move its approval of these proposals for pre-introduction.

Please feel free to let me know if I can clarify anything or provide any additional information.

Division	DOR File No.	Short Title	Fiscal Impact	Statutes Impacted
IMCD/BITD	07-002	E-File requirement for corp tax	None	15-31-111

This bill proposes modernizing how corporate income taxpayers file annual tax returns.

Issue:

Corporate income taxpayers represent the largest segment of paper return filers for the Department and contrast with the ever-increasing trend exhibited by other taxpayers who file electronically. A properly filed e-return is easier for our auditors to view and audit. It will also allow staff to more efficiently research, sort, and analyze data.

Proposal:

Require corporate taxpayers to electronically file their tax returns which may include an electronic filing waiver to accommodate situations (company or software related) that prevent a taxpayer from filing an e-return. Although some states have moved to electronic filing, the Department (to our knowledge) has not proposed this type of legislation previously.

Division	DOR File No.	Short Title	Fiscal Impact	Statutes Impacted
PAD	08-004	Repeal/Modify non-qualified agricultural classification	Positive	15-6-133

This bill would be to either repeal the non-qualified agricultural property classification all together or increase the acreage threshold from 20 acres to 40 acres.

Issue:

The statute is arbitrary and creates an inequality for landowners of similarly-situated and sized properties. The non-qualified agricultural land section does not require any proof that the property is being put to agricultural use or whether local zoning and rules allow for the use as agricultural.

Proposal:

The purpose of this bill would be to either repeal the non-qualified agricultural property classification all together, or increase the acreage threshold from 20 acres to 40 acres. Currently 15-6-133, MCA, allows a non-market value to be applied to properties between 20 and 160 acres that do not qualify as agricultural (Non-Qual Ag.).

Division	DOR File No.	Short Title	Fiscal Impact	Statutes Impacted
BITD	07-006	Extension of statute of limitations	None	15-30-2606

This bill would allow the Department and an individual income taxpayer to agree to extend the statute of limitations for issuing a refund or an assessment.

Issue:

Section 15-30-2606, MCA, does not allow the Department and an individual income taxpayer to agree to an extension of the period of limitations. Any agreed upon extension would allow an assessment or a refund to be issued in that agreed upon period. The inability for the Department and individual income taxpayers to do so is inconsistent with how these same taxpayers are treated for federal income tax purposes (an individual taxpayer may enter into an extension agreement with the IRS). Moreover, corporate taxpayers may enter into these types of agreements with DOR, creating disparate treatment between individuals and corporations.

Proposal:

Amend 15-30-2606, MCA, to allow the Department and an individual income taxpayer to agree to extend the statute of limitations for issuing a refund or an assessment.

Division	DOR File No.	Short Title	Fiscal Impact	Statutes Impacted
BITD	07-007	IIT/Corp Clean Up	None	15-30-2609(2), 15-31-509(2)

This bill would conform Montana’s refund and credit statute of limitations with the Internal Revenue Code.

Issue:

SB 138 (2017) has created a lot of confusion (and appeals) for taxpayers and the Department because of the inclusion of what appears to be a reference to an additional filing permitted outside of the statute of limitations for a tax return. The confusion stems from inconsistent starting points when measuring the time permitted for a refund or credit to be allowed. Conforming Title 15, Chapter 30 and Chapter 31, MCA, to the IRC’s language would remedy the confusion. Effectively, this proposal would eliminate the additional “or filing,” and set the statute of limitations for a refund or credit to the existing statute of limitations, or for a period of one year after the tax was paid, or, if no return was filed, within one year from the time the tax was paid.

Proposal:

Amend 15-30-2609(2) and 15-31-509(2), MCA, to conform to Internal Revenue Code.

Division	DOR File No.	Short Title	Fiscal Impact	Statutes Impacted
DO	01-010	UCP simplification	-120000	70-9-801, 70-9-811, 70-9-812

This bill would adopt the Revised Uniform Unclaimed Property Act (RUUPA) which was drafted in 2016 by the Uniform Law Commission.

Issue:

Current unclaimed property laws are somewhat inefficient and are not cost effective to the holders and the state.

Proposal:

Update the unclaimed property laws to bring clarity and update with the advances in property and technology. Provide a more efficient, cost effective and widespread mechanism for publishing unclaimed property to the public. To allow unclaimed property to permanently revert to the state after a certain timeframe is met and require holders to sell securities, tangible assets, and virtual currency before remitting to the state.

Division	DOR File No.	Short Title	Fiscal Impact	Statutes Impacted
IMCD	05-011	Warrant for Distraint specific personal property state wide	None	15-1-701(2)

This bill change would create efficiencies for the Department and all Clerks of County Courts.

Issue:

Currently, the department’s process is to file a Warrant for Distraint in the county in which a delinquent taxpayer resides and abstract the warrant to the county where the personal property is located. This results in extra time and resources required for Montana’s Clerks of County Court and the Department. This proposal streamlines the process and makes it more efficient.

Proposal:

Allow for automatic abstract of warrants for distraint filed in a county to be effective statewide. This would require modification of the language in 15-1-701(2), MCA, to apply statewide to all funds in demand, savings, or time deposits held in banking institutions in which a delinquent taxpayer has ownership interest; wages and compensation owed to a delinquent taxpayer; stock, equity interests, and investment accounts in which delinquent taxpayer has ownership interest and any other monies due and owing to the delinquent taxpayer.

This proposal applies a lien to the items listed above only.

Division	DOR File No.	Short Title	Fiscal Impact	Statutes Impacted
IMCD	05-013	SABHRS Offset Program	None	17-4-103

This bill would amend the existing statutory structure of Bad Debts to integrate the Offset System.

Issue:

Title 17, Chapter 4, MCA, provides the Department with the authority to operate a debt collection service for the State of Montana. To facilitate the settling of accounts, the Department of Administration (DOA) has enacted the SABHRS Offset Program as part of the state accounting system. Essentially, this proposal will better define the choices other agencies, universities, etc. have when they enter into an MOU and the debt, when entering into the SABHRS offset program, will not be transferred to the Department.

Proposal:

Amend the existing statutory structure of “Bad Debt”’s to integrate the Offset System. In the bad debt program, agencies sign over and transfer their debt to the Department in SABHRS. They no longer have any fiscal responsibility for the debt. In the SABHRS offset program, agencies will load their debt into the system, however they still manage the debt and it continues to reside on that agencies accounting ledger.

This change to statute will not impact other agencies and the Department will not change processes or operational procedures.

Division	DOR File No.	Short Title	Fiscal Impact	Statutes Impacted
PAD	08-023	Commercial property definition and classifications changes	None	15-1-101, 15-6-134, 15-8-111

This bill would repeal 15-8-111(5)(c), MCA, to permit other methods of valuing commercial condominiums under the cost approach.

Issue:

The current definition under 15-1-101, MCA, is problematic from a valuation perspective. It allows commercial properties to be taxed at a residential tax rate because it does not account for restrictions of use caused by zoning, covenants, condominium declarations and other restrictions that legally restrict the use to only commercial. Like this statute, 15-8-111 (5)(c), MCA, requires a certain methodology be used to value commercial condominiums under the cost approach to value. The statute does not allow flexibility when the interior units are not the same size, or when a project contains mixed use such as commercial and residential in the same unit.

Proposal: 15-1-101, MCA should be amended to restrict the use of commercial property to the requirements that the property is zoned in, convenience requirements, and the highest and best use, not the actual use if that use is contrary to the other requirements. This could also be accomplished by moving commercial condominiums to the list of commercial properties in 15-6-134(1)(e), MCA.

Division	DOR File No.	Short Title	Fiscal Impact	Statutes Impacted
IMCD	05-029	Livestock Per Capita Fee Clarification of Penalties/Interest	None	15-24-921

This bill amends 15-24-921, MCA, to allow a 30 day grace period before the imposition of interest and penalties for livestock reported to the Department after May 31.

Issue:

Currently, a penalty is assessed for livestock brought into the state after the May 31 deadline even if the owner immediately reports and pays the per capita fee.

Proposal:

This proposal would allow a 30-day period before the imposition of interest and penalties for livestock brought into the state after May 31.