

PROPOSED CHANGES TO 15-10-420

Presented to the Revenue Interim Committee
January 23, 2024

When the Supreme Court issued its decision on the application of 15-10-420 in *MACO v. State of Montana*, they put in place the guidelines for the operation of this statute regarding current wording of the law. While this decision settled the questions brought by the counties about mill banking, the Court's decision also invested the Montana Department of Revenue with powers that the legislature never contemplated or intended.

Therefore, it is incumbent that the next legislature more clearly defines the operation of the law and the role of the DOR.

To that extent following are the Montana Taxpayers Association's suggestions for modifications to 15-10-420.

1. Leave 1(a) as is. (*adjustments to the inflation factor are a legislative policy decision*).
2. Amend 1(b) to only apply to local governments as was the intent of SB 265 passed in 2001 that was titled "Allow local governments to impose less than the maximum number of mills and carry forward the authority to impose the maximum number of mills in a subsequent tax year".
3. Also amend (1) (b) to change the banking mechanism from mills to dollars. Because taxable values generally go up, a mill banked in one year yields more dollars in a later year when it is used.
4. Amend (3)(b) by replacing (ii) with language that makes it clear that value increases due to cyclical reappraisal are not newly taxable property.
5. Amend (8) to clarify that the role of the DOR is to calculate the proper number of mills to comply with (1) (a). and inform the counties of that number of mills. The Counties will then be required to levy that number of mills on all property in the county. This maintains the equalization requirements of the statewide levies.

The legislature should also look at amending Title 20 language related to the equalization mills. Since the Supreme Court saw no difference in the 3 equalization levies, the Legislature should consider repealing 20-9-331 and 20-9-333, and amending 20-9-360 to increase the mill levy to 95 mills. The equalization levies should remain subject to 15-10-420, as they are significant factor in taxpayers bills and should not be the only uncapped mill levies that were not approved by the voters.

If the Legislature wanted to make the equalization mills operate like other mill levies, they could remove the specific cap, and set the levy based on dollars in a base year, then the levy could float up or down depending on the changes in statewide tax base. That would eliminate the accumulation of banked mills, and the need to use them to maintain revenue.

An additional consideration the Legislature might contemplate is how the property tax revenue is estimated in HJ 2. The Legislature should only be allowed to include the amount of revenue in its projections that result from the application of the mill levy calculated in 15-10-420 (1) (a) applied to the total taxable value of the property in the State.