

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 42.19.401, 42.19.402,) PROPOSED AMENDMENT
42.19.405, and 42.129.407 pertaining)
to residential property tax assistance)
program improvements)

TO: All Concerned Persons

1. On November 27, 2023, at 1:00 p.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment of the above-stated rules. The conference room is most readily accessed by entering through the east doors of the building.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, please advise the department of the nature of the accommodation needed, no later than 5 p.m. on November 10, 2023. Please contact Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or todd.olson@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY. The 68th Montana Legislature enacted several pieces of property tax relief legislation which included modification of the Property Tax Assistance Program (PTAP), Montana Disabled Veteran Property Tax Assistance Program (MDV), and Intangible Land Value Property Tax Assistance Program through House Bill 189 (HB 189), House Bill 325 (HB 325), and House Bill 459 (HB 459).

HB 189 expanded PTAP by increasing the amount of residential property value eligible for tax assistance from \$200,000 to \$350,000, based on market value of residential real property. HB 189 also requires the department to increase the property value eligibility amount after each two-year reappraisal cycle using an inflation index based on the change in the market value of the median home value of all residential real properties participating in PTAP. HB 325 expanded the definition of unusual circumstances in income that the department must consider when determining continued eligibility in MDV. HB 459 revised the statutory deadline for a property owner to apply for the Intangible Land Value Property Tax Assistance Program in the first year of the two-year valuation cycle from March 1 to within 30 days from the date on the owner's property classification and appraisal notice. HB 459 also expands the exemption process for applications submitted after 30 days from the date on the classification and appraisal notice.

Based on the above-described legislative changes, this rulemaking is necessary to align ARM 42.19.401, 42.19.402, and 42.19.407 with the statutes amended by the respective bills.

The department also proposes numerous amendments to the above-described rules, as a part of Governor Gianforte's Red Tape Relief Initiative, to simplify administrative rules through the removal of redundancies to statute and clarification of department procedures and/or requirements.

While this general statement of reasonable necessity covers the basis for the proposed rule amendments, it is supplemented below to explain rule-specific proposals.

4. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

42.19.401 PROPERTY TAX ASSISTANCE PROGRAM (PTAP) AND MONTANA DISABLED VETERAN (MDV) PROPERTY TAX ASSISTANCE PROGRAM; APPLICATION PROCESS; DETERMINATIONS; PROGRAM COMPLIANCE (1) ~~The property owner of record or the property owner's agent A qualifying applicant, as defined in ARM 42.19.405, must make application apply to the local department office in accordance with, and subject to the eligibility requirements of 15-6-302, MCA, and this rule to receive the PTAP benefit provided for in 15-6-305, MCA, or the MDV benefit provided for in 15-6-311, MCA.~~

(2) ~~The PTAP benefit is administered through as a reduced property tax rate that applies up to the first \$200,000 or less of the appraised market value limit authorized by and adjusted under 15-6-305, MCA, of the qualifying applicant's residential real property primary residence.~~

(a) ~~A primary residence is defined in 15-6-301, MCA, as a dwelling where the qualifying applicant lived for at least seven months of the tax year for which benefits are claimed. Provided, a primary residence may include more than one dwelling and the time of residency in each may be combined to meet the seven-month requirement.~~

(b) ~~When the appraised market value of a primary residence exceeds the statutory limit, as adjusted, the department will apply the reduced tax rate up to that limit and then apply the standard tax rate to the difference between the limit and the residence's appraised value.~~

(3) ~~The MDV benefit is administered through as a reduced property tax rate that applies to for the residential real property primary residence of a qualified veteran or qualified veteran's spouse, as provided for in 15-6-301 and 15-6-311, MCA, and is based on a statutory schedule of qualifying income for an applicant or an applicant's spouse.~~

(4) ~~The department will accept an application, in the form provided by the department, through U.S. mail or electronic mail, in person, or by telephone. If a qualifying applicant applies by telephone, the department may assist the applicant in its completion and note telephonic submission of the application in the property assessment records.~~

(a) ~~Mailed applications must be postmarked by April 15 of the year first claimed. Mailed applications received after April 15 will be processed for the following tax year.~~

(i) ~~The application deadline does not apply for a first-time applicant submission occurring within 30 days from the date on their classification and~~

appraisal notice.

(ii) The department may waive the application deadline when a substantiated hardship case exists. The department must document its justification for a deadline waiver.

(b) A qualifying applicant is not required to reapply for each succeeding year but is subject to the annual verification process described in 15-6-301, MCA, and in (7), (10), and (11).

(a) (5) The reduced property tax rate does Except as provided in (6), PTAP and MDV benefits may not apply to separately described or assessed parcels of land that do not support the primary residential improvements, regardless of whether those parcels of land are contiguous with or adjacent to the primary residential property.

(b) (6) If the primary residence is a mobile home or manufactured home that is assessed separately from the land upon which it is located, both, the mobile home or manufactured home and the land upon which it is located may qualify for the a benefit if they are both owned by the qualifying applicant. If the land is not owned by the qualifying applicant, the a benefit applies only to the mobile home or manufactured home. To be eligible, the property must be:

- (i) owned by the applicant; or
- (ii) under contract for deed; and
- (iii) used as the applicant's primary residence.

(3) (7) A taxpayer's primary residence is a dwelling in which the taxpayer can demonstrate they lived at least 7 months of the year for which the assistance is claimed. The primary residence must be the only residence for which the taxpayer claims property tax assistance in a given tax year. A qualifying applicant must attest to property ownership upon initial application and in connection with an annual verification. The department may request proof of residency to ensure the property applied for under the PTAP or MDV programs qualifies as a primary residence under (2).

(a) Examples of acceptable proof of residency include:

(i) federal or state tax returns, a driver's license, car registrations, hunting or fishing licenses, or a voter registration that lists the address of the primary residence;

(ii) employment records listing the primary residence as the place of residence; or

(iii) copies of bills and correspondence sent to the primary residence address.

(b) Temporary residency changes, such as admission to a hospital, nursing home, or similar facilities do not change an applicant's primary residence for the purposes of PTAP or MDV benefits.

(8) The department will apply the full year a benefit to the primary residence for the entire tax year when:

(a) a qualifying applicant owns and occupies lives in the primary residence at the time when the department provides the tax roll is provided to the county treasurer for billing. If the property ownership changes between that time and the end of the calendar year, the benefit remains on the property primary residence for the full entire tax year; or

(b) in the case of a separately assessed mobile home or manufactured home, a qualifying first-time applicant receives a classification and appraisal notice from the department, and applies for the property tax assistance within 30 days from the date on the notice affirming that their home is their primary residence applies for a benefit pursuant to the requirements of 15-6-302, MCA, and this rule, and receives written approval from the department.

(4) (9) If a qualifying applicant owns and lives in one Montana dwelling for less than 7 months during the tax year, and in another Montana dwelling for less than 7 months of the same tax year, the time in both dwellings can be combined to meet the 7-month requirement. When a change in the property ownership of the primary residence occurs prior to the time before the department provides the tax roll is provided to the county treasurer's office for billing, the department will apply the a benefit as follows:

(a) if a qualifying applicant owned and occupied the property lived in a primary residence for less than 7 seven months of the tax year, the department will remove the benefit from the property tax rolls. However, The a benefit may be combined as described in (2) and transferred to another primary residence, if the qualifying applicant purchases one, as provided in 15-6-301, MCA; or

(b) if a qualifying applicant owned and occupied the property lived in the primary residence for at least 7 seven months of the tax year, the department will apply the benefit for the number of days that the qualifying applicant owned and occupied the property, based on a per-day basis using the date of sale. Once the qualifying applicant no longer owns the primary residence, The property will be assessed at the full tax rate for the remaining portion of the tax year following from the date of sale.

(5) An applicant may demonstrate the 7-month occupancy requirement in (4) with such indicators including, but not limited to:

(a) the mailing address for receipt of bills and correspondence;
(b) the address on file with the applicant's employer as the place of residence; and

(c) the mailing address listed on the applicant's federal and state tax returns, driver's license, car registration, hunting and fishing licenses, or voter registration.

(6) A temporary stay in a nursing home or similar facility will not change an applicant's primary residence for the purposes of the PTAP or MDV benefits.

(7) The benefit does not transfer to the new owner of the dwelling.

(8) A property owner of record or the property owner's agent must file an application that is postmarked by April 15 of the year for which the assistance is first claimed. Applications received after that date will be processed and entered into the department's income and eligibility verification process for the following year.

(9) The department may accept applications through regular or electronic mail, in person, or by telephone. If by telephone, the employee shall verify that the applicant has affirmed their eligibility and affirmed that the dwelling is their primary residence by signing the form on the applicant's behalf and initialing the signature.

(10) An applicant is not required to reapply once the department has entered their application into its verification process except as provided in (3) and (4).

(11) The April 15 application deadline is waived if a first-time applicant forwards an application to the department within 30 days from the date on the

~~classification and appraisal notice.~~

(12) The department may waive the April 15 application deadline at any time the department's local office or the department's taxpayer advocate consults with local aging services or disability offices and confirms a hardship case exists. The department must document its finding.

(13) The department may coordinate with the Social Security Administration and the Veterans Affairs Administration to verify the income and eligibility of applicants and participants.

(14) (10) Each year after the application deadline, the department will:

(a) verify the qualifying income and eligibility of applicants and PTAP and MDV program participants;

(b) grant approve, renew, or deny the applicant's benefits, in writing; and

(c) advise applicants and participants of the department's determination in writing; and

(d) (c) advise taxpayers notify PTAP and MDV program participants of their right to appeal the department's determination to the Montana Tax Appeal Board within 30 days of receiving a determination letter.

(15) (11) The information applicants provide the department is subject to the false swearing penalties established in 45-7-202, MCA. In accordance with 15-6-302, MCA, The the department may:

(a) may investigate the information provided in an application and an applicant's continued eligibility;

(b) may request an applicant to verify the occupancy of their primary residence; and

(c) will review, on a case-by-case basis, any applicant or program participant for whom it's the verification process finds no source of income and record its findings for future use document the same.

(16) (12) The department may address unusual circumstances of ownership and income that arise in administering this the PTAP and MDV programs such as:

(a) confusion property ownership issues when a spouse dies and the other spouse is not yet on the property's deed person dies and title to the property has not yet been transferred to their spouse; or

(b) remains the same.

(13) The department may also consider the additional unusual circumstances for MDV program eligibility described in 15-6-302, MCA.

AUTH: 15-1-201, 15-6-302, MCA

IMP: 15-6-301, 15-6-302, 15-6-305, 15-6-311, 15-6-312, MCA

REASONABLE NECESSITY: In addition to the department's general statement of reasonable necessity, the department proposes the following amendments:

1. Revise the catchphrase of the rule to better detail the rule's inclusion of application, determination, and compliance requirements.

2. Amend (1) to use terminology adopted in statute or rule and generally revise sentence structure to improve the rule section.

3. Amend the appraised market value reference in (2), consistent with HB 189's changes to 15-6-305(2), MCA, but defer to the statute to alleviate future rulemaking to change an amount that is subject to change by the Legislature. Subsection (2)(a) is proposed as a necessary reiteration of 15-6-301, MCA, and a relocation and revision of text from current (3) and (4). Subsection (2)(b) is proposed for inclusion to provide taxpayer guidance of department procedures where the value of the principal residence exceeds the statutory limit. Neither statute nor existing rule addresses this occurrence and the department believes the guidance is necessary.

4. Section (3) is proposed to clarify rule text and to amplify the statutory provision of income schedules that govern the MDV program.

5. Proposed (4) is the relocation and revision of text from current (9) through (12) to improve the structure of the rule from its current form and to clarify application submission processes, some of which are derived from HB 459.

6. Proposed (5) and (6) reflect a renumbering and revision of current (2)(a) and (b). The sections clarify the allowable exception to separately assessed parcels and remove text which is unnecessarily redundant to statute while conforming terminology to the rule as a whole.

7. Proposed (7) reflects the removal of text that is unnecessarily redundant to statute and relocates and restates the documentation requirements in (5) to improve clarity.

8. Proposed (8) restates text to improve clarity and provides necessary procedural guidance for first-time program applications.

9. Section (9) proposes the removal of text that is unnecessarily redundant to statute and/or restates, for clarity, department processes relative to an applicant/program participant combining primary residences to achieve the seven-month residency requirement. The amendments also seek to clarify department processes for transferring or prorating, as applicable, the reduced tax rate benefit when an applicant/program participant sells their property.

10. Strike current (5) through (13), which is necessary to support the overall goal of the rulemaking stated above, remove unnecessary redundancies found in 15-6-301, 15-6-302, or 15-6-311, MCA, and relocate text to restructure sections of the rule.

11. Proposed (10) through (12) restate text to improve clarity, provide necessary procedural guidance, and also provide necessary statutory attribution for the department's authority in the administration of the PTAP and MDV programs.

12. Proposed (13) is a necessary cross-reference to 15-6-302, MCA, to implement HB 325's amendments regarding additional ownership and unusual income circumstances for MDV program participants.

42.19.402 INFLATION ADJUSTMENT FOR PROPERTY TAX ASSISTANCE PROGRAM (PTAP) AND FOR MONTANA DISABLED VETERAN (MDV)
PROPERTY TAX ASSISTANCE PROGRAM (1) Sections 15-6-301, 15-6-302, 15-6-305, and 15-6-311, and 15-6-312, MCA, provide property tax relief to fixed or limited income homeowners, qualified disabled veterans, and qualified veterans' spouses. Sections 15-6-302, 15-6-305, and 15-6-311, MCA, also require the

~~department to annually adjust the income levels used to determine the eligibility and the amount of relief to account for the effects of inflation.~~

(2) ~~The calculation of the inflation factor shall be made on a yearly basis as follows: The department annually adjusts the PTAP and MDV programs base year qualifying income levels provided in 15-6-305 and 15-6-311, MCA, respectively, for the effects of inflation.~~

(a) remains the same.

(b) ~~The formula for the calculation of the inflation factor is as follows:~~

$$IF_t = \frac{PCE_{(t-1)}}{PCE_{t_0}}$$

~~where:~~

~~IF_t~~ equals the inflation factor for property tax year t,

~~PCE_(t-1)~~ is the price index value for personal consumption expenditures for the first quarter of the year prior to the tax year in question,

~~PCE_{t_0}~~ is the price index value for personal consumption expenditures for the first quarter of 2015

(c) ~~(b) The inflation factor, calculated per the previous section, is used to annually adjust the base year income schedules for the effects of inflation. Each income figure in the base year income schedule is multiplied by the inflation factor calculated for the tax year in question in order to update the schedule. The product is then rounded to the nearest whole dollar amount. If the adjustment results in a decrease in qualifying income levels from the previous year, the qualifying income levels must remain the same for that year.~~

(3) ~~The base year income levels for PTAP and MDV are provided in 15-6-305 and 15-6-311, MCA, respectively. The department shall adjust the market value limit for residential real property for inflation after each two-year reappraisal cycle in accordance with 15-6-305, MCA. The department will finalize the market value limit by rounding it to the nearest \$1,000.~~

(4) ~~The department will publish PTAP and MDV qualifying income levels and market value limit annually on the department's website at <http://www.mtrevenue.gov>.~~

AUTH: 15-1-201, MCA

IMP: 15-6-191, 15-6-301, 15-6-302, 15-6-305, 15-6-311, 15-6-312, MCA

REASONABLE NECESSITY: In addition to the department's general statement of reasonable necessity, the department proposes to amend ARM 42.19.402 which is necessary to implement HB 189 changes to PTAP. HB 189

rebased the personal consumption expenditures (PCE) inflationary factor found in 15-6-301, MCA, to adjust the base year qualifying income levels in the PTAP and MDV programs from the first quarter of 2015 to the first quarter of 2023.

The department also observes that the current inclusion of the technical formula in current (2)(b) does not lend to a greater understanding of the inflation adjustment by those persons affected by the changes; and given the detailed explanation of the inflation factor calculation procedure in (2), the department proposes to remove the formula from (2)(b) to simplify the rule. Notwithstanding, the department will continue the use of the formula in its calculations and the formula will be made available to taxpayers upon request.

The department's proposed amendments to (3) are consistent with the general statement of reasonable necessity and the need to implement HB 189, and further that the department will round the market value limit to the nearest \$1,000 for ease of administering the PTAP program.

The department proposes new (4) to inform the public of the availability of supporting information – not requirements - for PTAP and MDV programs which may be found on the department's website, and updated according to 15-6-305, MCA.

42.19.405 DEFINITIONS The following definitions apply to rules in this subchapter.

- (1) and (2) remain the same.
- (3) "Qualifying applicant" means:
 - (a) an individual who is the record owner of the land and improvements that are the primary residence of the individual or who is purchasing the property under a contract for deed; or
 - (b) through (4) remain the same.
- (5) "Residential real property" means the land and improvements of a taxpayer's primary residence.

AUTH: 15-1-201, 15-6-302, MCA

IMP: 15-6-134, 15-6-240, 15-6-301, 15-6-302, 15-6-305, 15-6-311, 15-6-312, MCA

REASONABLE NECESSITY: In addition to the department's general statement of reasonable necessity, the department proposes to amend ARM 42.19.405 through an addition of text to (3)(a) which reflects 15-6-302(2), MCA, and confirms that a qualifying applicant under PTAP or MDV may own the primary residence pursuant to a contract for deed. The department also proposes to strike the definition for "residential real property" in (5) because the definition has limited use and could be confusing versus the definition of "principal residence" found in 15-6-301, MCA.

42.19.407 INTANGIBLE LAND VALUE PROPERTY TAX ASSISTANCE PROGRAM FOR RESIDENTIAL PROPERTY (1) Property taxpayers owners who meeting the requirements of the intangible land value property tax assistance program, as described provided in 15-6-240, MCA, may submit an application apply for assistance to the department. The application form is available on the

department's web site at revenue.mt.gov form at <http://www.mtrevenue.gov>.

(2) Applications must be submitted by March 1 in order to be considered for the current tax year as provided in 15-6-240, MCA within 30 days from the date on the classification and appraisal notice for the exemption to be considered for both years of the two-year valuation cycle.

(a) Applications submitted more than 30 days from the date on the classification and appraisal notice will apply to the second year of the two-year valuation cycle only.

(b) An applicant who does not apply during the first year of the valuation cycle must apply by March 1 of the second year of the valuation cycle.

(3) Qualifying applicants shall affirm that the property owned and maintained by the applicant is the applicant's primary residence. If verification is necessary, the applicant may demonstrate they meet this requirement with such indicators including, but not limited to The department may require the applicant document that the property applied for under the program qualifies as a primary residence. Examples of acceptable proof of residency include:

(a) the mailing address for receipt of bills and correspondence;

(b) the address on file with the applicant's employer as the place of residence; or

(c) the mailing address listed on the applicant's federal and state tax returns, driver's license, car registration, hunting and fishing licenses, or voter registration.

(a) federal or state tax returns, a driver's license, car registrations, hunting or fishing licenses, or a voter registration that lists the address of the primary residence;

(b) employment records listing the primary residence as the place of residence; or

(c) copies of bills and correspondence sent to the primary residence address.

(4) Qualifying applicants must provide documentation that their land for which the applicant is seeking assistance has been owned by the applicant or a family member of the applicant within three degrees of consanguinity (ancestral line of descent) for at least 30 consecutive years. Examples of Acceptable types of documentation include, but are not limited to:

(a) property deeds showing ownership of the land;

(b) property tax records indicating ownership in the name of by the applicant;

(c) bills of sale indicating ownership in the name of by the applicant; or

(d) documents showing the transfer of the land from one degree of consanguinity to the next degree.

(5) Computation of the degree of consanguinity is calculated as follows:

(a) through (c) remain the same.

(6) As described in 15-6-240, MCA, if the department's appraised value of the land is greater than 150 percent of the appraised value of the primary residence and improvements situated on the land, then the land is valued at 150 percent of the appraised value of the primary residence and improvements, subject to the following:

(a) The subject property will not qualify if the land value is less than the statewide average of the land multiplied by the acreage of land of the subject property; and

(b) and (7) remain the same.

(8) In order to meet the requirements of (6), a Qqualifying applicants are is required to reapply for the intangible land value property tax assistance program each property valuation cycle. The supporting documentation outlined in (4) may be required with any reapplications.

AUTH: 15-1-201, MCA

IMP: 15-6-240, 15-6-301, MCA

REASONABLE NECESSITY: In addition to the department's general statement of reasonable necessity, the department proposes to simplify the rule text through a general revision of (1), (3), (4), and (5), such as replace "submit an application" with "apply," and provide consistent referencing across the rule subchapter. The department must also update its website reference through which application forms are primarily accessed.

Since qualifying property owners are often not aware of their eligibility for the tax assistance until they receive their classification and appraisal notice in the first year of the valuation cycle, the department proposes to remove the March 1 application deadline in (2) because the department typically mails notices in June in the first year of the valuation cycle, which is past the March 1 deadline. Subsections (2)(a) and (b) are also proposed to implement HB 459's additional amendments to 15-6-240, MCA, when applications are submitted after 30 days from the date on the classification and appraisal notice.

Section (4) also proposes to remove "include, but are not limited to" language in favor of "examples" because the former is primarily a legal term of art more commonly applied in contracts and the proposed amendments are simpler and provide the same legal effect for the rule.

The amendment to (8) proposes to clarify the requirement for a property owner to reapply every two years as qualified applicants may not qualify for the exemption in subsequent valuation cycles based on property value changes in the market.

5. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail todd.olson@mt.gov and must be received no later than 5:00 p.m., December 4, 2023.

6. Todd Olson, Department of Revenue, Director's Office, has been designated to preside over and conduct the hearing.

7. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding particular subject

matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in number 5 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

8. An electronic copy of this notice is available on the department's web site at www.mtrevenue.gov, or through the Secretary of State's web site at sosmt.gov/ARM/register.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The respective primary bill sponsors were contacted by email on September 27, 2023 and October 23, 2023.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Todd Olson
Todd Olson
Rule Reviewer

/s/ Brendan Beatty
Brendan Beatty
Director of Revenue

Certified to the Secretary of State October 24, 2023.