

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 42.20.118 pertaining to tribal) PROPOSED AMENDMENT
government applications for)
temporary property tax exemptions)

TO: All Concerned Persons

1. On August 26, 2022, at 10:30 a.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 rule. 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 5:00 p.m. on August 12, 2022. 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. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

42.20.118 TRIBAL GOVERNMENT APPLICATION FOR A TEMPORARY PROPERTY TAX EXEMPTION (1) A federally recognized tribe in Montana is eligible for a temporary property tax exemption of tribal fee land as provided in 15-6-230, MCA. ~~on January 1, under the following conditions:~~

~~(a) the tribe submits to the department the following:~~

~~(i) a United States Department of Interior, Bureau of Indian Affairs letter dated prior to January 1 acknowledging receipt of the tribe's written request or application for the acquisition of trust title to the tribal fee land; a tribal certification regarding whether the tribe subsequently received notice from the United States Department of Interior, Bureau of Indian Affairs that the tribe's written request or application was incomplete; and a tribal certification regarding whether the tribe has satisfied the requirements regarding incompleteness that were set out in the United States Department of Interior, Bureau of Indian Affairs letter as of the date of the application to the department; or~~

~~(ii) a United States Department of Interior, Bureau of Indian Affairs written certification to the director of the department that the tribe's initial written request or application for the acquisition of trust title to the tribal fee land was submitted prior to January 1 and the initial written request or application was complete as of the dates of the exemption application to the department; and~~

~~(b) the tribe makes timely application to the local department office in the year in which the exemption is sought.~~

~~(2) The A federally recognized tribe in Montana must file apply for a temporary tribal property tax exemption on an application form available from the local department, office in the county in which the tribal fee land is located on or before March 1 of the year for which the exemption is sought. A tribe with tribal fee lands located in more than one county must file an application for a property tax exemption in each county. Applications postmarked after March 1 will be considered for the following tax year.~~

~~(3) The following documents must accompany be submitted with the tribe's application to the department:~~

~~(a) a United States Department of the Interior, Bureau of Indian Affairs' letter acknowledging receipt of the tribe's initial written request or application for acquisition of trust title to the tribal fee land, or a United States Department of Interior, Bureau of Indian Affairs certification to the director of the department, that the tribe's written request or application for acquisition of trust title to the tribal fee land was complete as of a specific date; and United States Department of Interior Bureau of Indian Affairs (BIA) documentation stating that the initial written request or trust application submitted by the tribe was complete prior to January 1 of the year for which the exemption is sought;~~

~~(b) a tribal resolution identifying the fee land, by legal description, for which the tribe has applied for federal trust title; and~~

~~(c) a deed, contract for deed, or notice of purchaser's interest that verifies ownership.~~

~~(4) The tribe must also certify in the application to the department whether the United States Department of Interior, Bureau of Indian Affairs has notified the tribe that its written request or application for acquisition of trust title to the tribal fee land was incomplete, and whether the tribe has satisfied the requirements regarding incompleteness that were set out in the United States Department of Interior, Bureau of Indian Affairs letter, as of the date of the application to the department.~~

~~(5) The temporary exemption will:~~

~~(a) apply only during the timeframe in which the tribe's written request or application is pending with the United States Department of Interior, Bureau of Indian Affairs;~~

~~(b) not exceed five years; and~~

~~(c) be removed on December 31 of the year in which the United States Department of Interior, Bureau of Indian Affairs, denies the tribe's written request or application for the acquisition of trust title. The department will:~~

~~(i) assess taxes on January 1 of the year after the tribe's written request or application is denied; and~~

~~(ii) no longer make available all property associated with a denied written request or application.~~

~~(4) The department will provide written notification to the county treasurer when an application is received and will identify the subject property. The department will also provide the county treasurer with a copy of all approved applications for the county.~~

(5) If a tribe's written request or trust application is denied by the BIA or the five-year exemption period expires while a trust application remains pending before the BIA, the department will:

(a) return the property to the tax rolls and value the property as of January 1 of the year after the tribe's written request or trust application is denied or the five-year exemption period expires; and

(b) provide the county treasurer with the taxable values for each property and each year there was a temporary exemption approved for applications received on or after May 7, 2021.

~~(6) The A tribe shall annually certify to the director of the department, by March 1, that their its written request or trust application for the acquisition of trust title is still under consideration by the United States Department of Interior, Bureau of Indian Affairs BIA and has not been denied.~~

~~(7) The department will approve or deny the application based on whether the property qualified for the exemption as of January 1 of the year for which the exemption is sought. The department will notify the tribe, the local department office, and the county treasurer of its decision in writing.~~

~~(8) The department will remove trust property from the tax rolls, as required by federal law, when the director of the department receives notice that the property has been acquired by the federal government in trust status for a tribe. The department will remove the property from the tax rolls on the date that the deed approving trust status is filed in the county in which the property is located.~~

~~(9) (7) When a tribe has administrative or contractual responsibilities, related to their own federal trust request or application process, the Secretary of Interior, or the person delegated authority by the Secretary of Interior, A tribe must certify to the director of the department that the when any property has been properly accepted taken into trust by, and is now subject to, and is under the management of the United States, and provide the specific date that each property was taken into trust. Upon receipt of the certification, the department will direct the local office to contact the county treasurer and remove the parcel(s) from the tax rolls.~~

AUTH: 15-1-201, 15-6-230, MCA
IMP: 15-6-230, 15-6-235, MCA

REASONABLE NECESSITY: The 67th Montana Legislature enacted Senate Bill 214 (SB 214) which revised the temporary tribal property tax exemption process for tribal property. Section 15-6-230, MCA, as amended by SB 214, now requires the department to notify a county treasurer when an exemption application is received and when the exemption is approved. In addition, a county treasurer may recapture property taxes if the fee-to-trust exemption application is denied by the Bureau of Indian Affairs or the property is not accepted into trust status within the statutory five-year temporary exemption period and the department will provide the taxable value of to a county treasurer for a collection of taxes subject to recapture.

The department proposes amendments to ARM 42.20.118 which are necessary to implement the SB 214-revised processes described above. The department also proposes amendments to the rule in connection with administrative rule review for the Governor's Red Tape Relief Initiative, with the goal of an

improved rule that presents an application process that is clearer and more concise.

Section (1) is proposed for amendment to eliminate internal redundancies within the rule and with what is provided in 15-6-230, MCA. Amendments to (2) clarify statutory requirements and the application submission process with the department. Section (3) is proposed for amendment for brevity of a tribe's initial written request or trust application, and to clarify other supporting documentation requirements for this exemption application type. Proposed (4) implements SB 214's procedural requirements for the department described above, and proposed (5) provides a necessary contingency in the event of an application denial. Section (6) is amended for brevity and clarity of an applicant tribe's annual certification requirement during the pendency of the temporary exemption period.

4. 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., September 6, 2022.

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

6. 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 4 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.

7. 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.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor of SB 214, Senator Hertz, was contacted by email on April 26, 2022 and July 19, 2022.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule 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 July 26, 2022.