

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of)
ARM 42.4.1202 and 42.26.101 and)
the repeal of ARM 42.4.121, 42.4.201)
through 42.4.209, 42.4.1702,)
42.4.2801 through 42.4.2803)
pertaining to eliminated tax credits)

TO: All Concerned Persons

1. On May 9, 2022, at 2:00 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 and repeal 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 April 22, 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. GENERAL STATEMENT OF REASONABLE NECESSITY. The 67th Montana Legislature enacted Senate Bill 399 (SB 399) which, among other things, eliminated or revised certain individual income tax credits which were provided in 15-30-2319, 15-30-2367, 15-30-2381, 15-31-131, 15-31-132, 15-31-171, and 15-32-109, MCA. Those statutes were all repealed by SB 399 effective as of January 1, 2022.

The department proposes to amend and repeal the above-stated rules, as applicable, which is necessary to implement SB 399. Amendments to rules remove statutory references from each rule's implementing authority. The rules proposed for repeal reflect SB 399's repeal of the respective rules' authorizing statutes, described above.

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

42.4.1202 APPLICATION OF CREDITS AGAINST CORPORATE INCOME TAX LIABILITY (1) through (4) remain the same

AUTH: 15-31-501, MCA

IMP: 15-30-2320, 15-30-2326, 15-30-2380, 15-31-130, 15-31-131, ~~15-31-132~~, 15-31-134, 15-31-150, 15-31-151, 15-31-161, ~~15-31-171~~, 15-32-115, 15-32-402, 15-32-503, 15-32-602, 15-32-701, 15-32-703, 15-50-207, 17-6-316, MCA

42.26.101 ALTERNATIVE TAX (1) and (2) remain the same.

AUTH: 15-31-501, MCA

IMP: 15-31-101, ~~15-31-122~~, ~~15-31-131~~, MCA

REASONABLE NECESSITY: In addition to the department's general statement of reasonable necessity, the department also proposes to amend ARM 42.26.101 to remove 15-31-122, MCA, as an implementing statute. The implementing authority, amended to the rule in MAR Notice No. 42-2-960 (2016), should have been 15-31-132, MCA, but correcting it now has been rendered moot since SB 399 also repealed 15-31-132, MCA. The net result leaves 15-31-101, MCA, as the sole implementing authority for the rule.

5. The department proposes to repeal the following rules:

42.4.121 INDIVIDUAL ENERGY-RELATED TAX BENEFITS

AUTH: 15-1-201, 15-32-203, MCA

IMP: 15-32-102, 15-32-109, 15-32-115, 15-32-201, 15-32-202, MCA

42.4.201 DEFINITIONS

AUTH: 15-1-201, 15-32-105, MCA

IMP: 15-32-105, 15-32-109, MCA

42.4.202 INDIVIDUAL INCOME TAX CREDIT FOR ENERGY CONSERVING EXPENDITURES

AUTH: 15-1-201, MCA

IMP: 15-32-106, 15-32-109, MCA

42.4.203 CREDIT FOR ENERGY CONSERVATION INVESTMENT

AUTH: 15-1-201, 15-32-105, MCA

IMP: 15-32-102, 15-32-105, 15-32-106, 15-32-109, MCA

42.4.204 CAPITAL INVESTMENTS FOR QUALIFYING ENERGY CONSERVATION CREDIT

AUTH: 15-1-201, 15-32-105, MCA

IMP: 15-32-102, 15-32-105, 15-32-106, 15-32-109, MCA

42.4.205 TAX YEAR FOR CLAIMING THE ENERGY CONSERVATION CREDIT AND MULTIPLE UNITS OR INVESTORS

AUTH: 15-1-201, 15-32-105, MCA
IMP: 15-32-102, 15-32-105, 15-32-106, 15-32-109, MCA

42.4.206 NEW CONSTRUCTION STANDARDS

AUTH: 15-32-105, MCA
IMP: 15-32-105, 15-32-109, MCA

42.4.207 RECORD RETENTION REQUIREMENTS

AUTH: 15-1-201, 15-32-105, MCA
IMP: 15-32-105, 15-32-106, 15-32-109, MCA

42.4.208 ANNUAL UPDATE OF CAPITAL INVESTMENTS QUALIFYING FOR THE ENERGY CONSERVATION CREDIT

AUTH: 15-1-201, 15-32-105, MCA
IMP: 15-32-102, 15-32-105, 15-32-106, 15-32-109, MCA

42.4.209 STANDARDS AND RATINGS

AUTH: 15-1-201, 15-32-105, MCA
IMP: 15-32-102, 15-32-105, 15-32-106, 15-32-109, MCA

42.4.1702 CREDIT FOR EMERGENCY LODGING

AUTH: 15-1-201, 15-30-2620, 15-31-501, MCA
IMP: 15-30-2103, 15-30-2381, 15-31-101, 15-31-102, 15-31-171, MCA

42.4.2801 DEFINITIONS

AUTH: 15-1-201, 15-31-501, MCA
IMP: 15-31-132, MCA

42.4.2802 HEALTH INSURANCE FOR UNINSURED MONTANANS CREDIT

AUTH: 15-31-501, MCA
IMP: 15-30-2367, 15-31-132, 33-1-207, MCA

42.4.2803 DETERMINING NUMBER OF EMPLOYEES

AUTH: 15-1-201, 15-31-501, MCA
IMP: 15-30-2367, 15-31-132, 33-1-207, MCA

6. 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., May 16, 2022.

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

8. 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 6 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.

9. 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.

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor of SB 399, Senator Hertz, was contacted by email on February 23, 2022.

11. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment and repeal of the above-referenced rules may significantly and directly impact small businesses, but any such significant or direct small business impact is attributable to the department only through the implementation of SB 399.

/s/ Todd Olson
Todd Olson
Rule Reviewer

/s/ Brendan Beatty
Brendan Beatty
Director of Revenue

Certified to the Secretary of State April 5, 2022.