



member of the applicant within three degrees of consanguinity (ancestral line of descent) for at least 30 consecutive years. 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 the applicant;
- (c) bills of sale indicating ownership in the name of 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) The degree of relationship by consanguinity between an individual and the individual's descendant is determined by the number of generations that separate them.

- (b) If an individual and the individual's relative are related by consanguinity, but neither is descended from the other, the degree of relationship is determined by adding:

- (i) the number of generations between the individual and the nearest common ancestor of the individual and the individual's relative; and

- (ii) the number of generations between the relative and the nearest common ancestor.

- (c) An individual's relatives within the third degree of consanguinity are the individual's:

- (i) parent or child (relatives in the first degree);

- (ii) brother, sister, grandparent, or grandchild (relatives in the second degree); and

- (iii) great-grandparent, great-grandchild, aunt who is a sister of a parent of the individual, uncle who is a brother of a parent of the individual, nephew who is a child of a brother or sister of the individual, or niece who is a child of a brother or sister of the individual (relatives in the third degree).

(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.

- (7) For the purpose of administering (6), the department determines the statewide average value of land to be the average market value per acre of all taxable class four residential land that is valued using the acre market land valuation models. The average market value per acre is calculated by taking the total appraised value of all taxable class four residential land valued using the acre land valuation models divided by the total acreage of all taxable class four residential land valued using the acre land valuation models.

- (8) Qualifying applicants are required to reapply for the intangible land value property tax assistance program each property valuation cycle.

AUTH: 15-1-201, MCA

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

REASON: The department proposes adopting New Rule I in support of Senate Bill (SB) 94, L. 2017 (15-6-240, MCA), which enacted a new property tax assistance program for certain properties. The intangible land value property tax assistance program assists residential property owners when their land value, as determined by the department, is disproportionately higher than the department's value of their home and other improvements, such as out buildings, located on their land. The tax assistance applies to the portion of the property owner's land value that is in excess of 150 percent of the department's appraisal market value of the home and other improvements located on the land.

As proposed, the new rule summarizes the qualifications for the program, references the statute for locating details, provides guidelines, outlines the application process, provides where to locate an application form, and addresses the application deadline.

Because SB 94 requires applicants to affirm that the property is their primary residence, as defined in 15-6-240, MCA, the department proposes including this requirement in (3) along with a list of indicators the applicant could use to support their affirmation if necessary. The new law also requires applicants to provide documentation proving property ownership within three degrees of consanguinity (ancestral line of descent) for 30 years. Therefore, the department proposes including this requirement in (4) along with a list of acceptable forms of documentation the applicant could provide.

The department further proposes detailing how the three degrees of consanguinity is calculated, in (5), to help property taxpayers determine if they qualify for the program.

The department proposes detailing the minimum equalization of value requirement, in (6), to set forth how the department calculates the statewide average value of land to make it clear that the calculation does not include agricultural or forest property that is valued based upon its productivity and not market value, or other residential property that is valued using a unit of measure other than acreage. Section (7) is proposed to be included in the rule to explain how the department uses acre land valuation models to calculate the statewide average value of land.

The department also proposes including the reapplication requirement in (8), as a reminder that renewal is not automatic.

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) (1) and (2) remain the same.

(3) 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. The department will apply the full year benefit to the primary residence when:

(a) a qualifying applicant owns and occupies the primary residence at the

time 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 for the full tax year; or

(b) in the case of a separately assessed mobile 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.

(4) If the taxpayer 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. In addressing such situations When a change in the property ownership occurs prior to the time the tax roll is provided to the county treasurer's office for billing, the department will apply the benefit as follows:

(a) the department will apply the full year benefit to the primary residence that the qualified applicant owns and occupies when their property taxes are billed if a qualifying applicant owned and occupied the property for less than 7 months of the tax year, the department will remove the benefit from the property. The benefit may be transferred to another primary residence, if the qualifying applicant purchases one, as provided in 15-6-301, MCA; and or

(b) when such property transfers the department will notify the seller that they must provide their new property information to the department before the department will transfer the benefit to the applicant's new home if a qualifying applicant owned and occupied the property for at least 7 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 the date of sale. The property will be assessed at the full tax rate for the portion of the year following the date of sale.

(4)(5) An applicant may demonstrate the 7-month occupancy requirement in (3)(4) with such indicators including, but not limited to:

(a) through (c) remain the same.

(5) through (8) remain the same, but are renumbered (6) through (9).

(9)(10) Applicants and participants in the PTAP as it existed on December 31, 2014, shall be entered into the department's annual verification process and will not be required to submit a new application. 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).

(10)(11) In reappraisal years, the The April 15 application deadline is waived if a first-time applicant forwards an application to the department within 30 days after from the date on the classification and appraisal notice.

(11) through (15) remain the same, but are renumbered (12) through (16).

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

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

REASON: The department proposes amending ARM 42.19.401 to implement House Bill 554, L. 2017, which modified the definition of "primary residence" and added a definition of "qualifying property" related to eligibility for the property tax

assistance program.

The proposed amendments to (3) and newly numbered (4) build upon those definitions by providing details about how the department determines whether a property qualifies for the property tax assistance benefit when the property ownership changes. Including the additional detail is intended to address taxpayer inquiries and concerns about how the department determines whether a property qualifies for the benefit in a given tax year.

The department further proposes striking the first sentence in newly numbered (10), pertaining to applicants and participants of PTAP as it existed in 2014, to be consistent with this change enacted by House Bill 74, L. 2017, which struck similar outdated language from 15-6-302, MCA.

The department also proposes removing the lead-in phrase "in reappraisal years" from newly numbered (11), because it is unnecessary. For any year in which a taxpayer receives a classification and appraisal notice, they have 30 days from the date on the notice to submit an application for assistance. The department also proposes correcting unclear wording in this section by replacing the word "after" with "from." The proposed amendment to this section of the rule is unrelated to new legislation.

42.19.403 MONTANA DISABLED VETERAN (MDV) PROPERTY TAX ASSISTANCE PROGRAM (1) and (2) remain the same.

(3) 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. The department will apply the full year benefit to the primary residence when:

(a) a qualifying applicant owns and occupies the primary residence at the time 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 for the full tax year; or

(b) in the case of a separately assessed mobile 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.

(4) If the taxpayer 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. In addressing such situations When a change in the property ownership occurs prior to the time the tax roll is provided to the county treasurer's office for billing, the department will apply the benefit as follows:

(a) the department will apply the full year benefit to the primary residence that the qualified applicant owns and occupies when their property taxes are billed if a qualifying applicant owned and occupied the property for less than 7 months of the tax year, the department will remove the benefit from the property. The benefit may be transferred to another primary residence, if the qualifying applicant purchases one, as provided in 15-6-301, MCA; and or

~~(b) when such property transfers the department will notify the seller that they must provide their new property information to the department before the department will transfer the benefit to the applicant's new home~~ if a qualifying applicant owned and occupied the property for at least 7 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 the date of sale. The property will be assessed at the full tax rate for the portion of the year following the date of sale.

~~(4)(5)~~ An applicant may demonstrate the 7-month occupancy requirement in ~~(3)(4)~~ with such indicators including but not limited to:

(a) through (c) remain the same.

(5) through (8) remain the same, but are renumbered (6) through (9).

~~(9)(10) Applicants and participants in the MDV as it existed on December 31, 2014, shall be entered into the department's annual verification process and will not be required to submit a new application. A veteran is not required to reapply once the department has entered their application into its verification process except as provided in (3) and (4).~~

~~(10)(11) In reappraisal years, the~~ The April 15 application deadline is waived if a first-time applicant forwards an application to the department within 30 days after ~~from~~ the date on the classification and appraisal notice.

(11) through (15) remain the same, but are renumbered (12) through (16).

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

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

REASON: The department proposes amending ARM 42.19.403 to implement House Bill 554, L. 2017, which modified the definition of "primary residence" and added a definition of "qualified property" related to the property tax assistance program. The proposed amendments to (3) and newly numbered (4) build upon those definitions by providing details about how the department determines whether a property qualifies for the property tax assistance benefit when the property ownership changes. Including the additional detail is intended to address taxpayer inquires and concerns about how the department determines whether a property qualifies for the benefit in a given tax year.

The department further proposes striking the first sentence in newly numbered (10), pertaining to applicants and participants of the MDV program as it existed in 2014, to be consistent with a change enacted by House Bill 74, L. 2017, which struck similar outdated language from 15-6-302, MCA.

The department also proposes removing the lead-in phrase "in reappraisal years" from newly numbered (11) because it is unnecessary. Any year in which a taxpayer receives a classification and appraisal notice, they have 30 days from the date on the notice to submit an application for assistance. The department also proposes correcting unclear wording in this section by replacing the word "after" with "from." The proposed amendment to this section of the rule is unrelated to new legislation.

The department further proposes adding 15-6-302, MCA, as an implementing citation for the rule.

42.19.405 DEFINITIONS The following definitions apply to rules found 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

(b) a revocable trust if the land and improvements are the primary residence of the grantor.

(c) Ownership interests that are not qualifying applicants include, but are not limited to, partnerships, corporations, limited liability corporations, transferrable revocable trusts, and irrevocable trusts.

(3) and (4) remain the same, but are renumbered (4) and (5).

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, ~~15-30-2101~~, MCA

REASON: The department proposes amending ARM 42.19.405 to add a definition for the term "qualifying applicant." This term is used in New Rule I, as proposed for adoption in this same rulemaking notice. New Rule I implements Senate Bill (SB) 94, L. 2017, which enacted a new property tax assistance program for residential property owners whose land value is disproportionately higher than the department's value of their home and other improvements. The term is also used in other rules located in this same subchapter of ARM Title 42, pertaining to property tax assistance programs. An applicant may only qualify for assistance through these programs on property that they own and occupy as their primary residence. Because the statute is very limited as to who qualifies, the proposed definition is intended to provide guidelines to property taxpayers concerning the limited types of property ownership that may meet the requirements of the statutes and rules covering these various property tax assistance programs. Some types of property ownership do not meet these requirements.

The department also proposes updating the implementing section of the rule by adding two supporting statutes, 15-6-240, MCA, (SB 94, L. 2017), and 15-6-302, MCA, and proposes deleting 15-30-2101, MCA, because it serves no purpose for this rule.

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: Laurie Logan, 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 lalogan@mt.gov and must be received no later than October 24, 2017.

6. Dan Whyte, Department of Revenue, Director's Office, has been designated to preside over and conduct this 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 that 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 a 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 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 [revenue.mt.gov/rules](http://revenue.mt.gov/rules), or through the Secretary of State's web site at [sos.mt.gov/ARM/register](http://sos.mt.gov/ARM/register).

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary sponsors of House Bill 74, Representative Greg Hertz, and House Bill 554, Representative Becky Beard, were contacted by regular mail on June 14, 2017, and subsequently notified on August 25, 2017 and September 5, 2017. The primary sponsor of Senate Bill 94, Senator Keith Regier, was contacted by regular mail on June 27, 2017, and subsequently notified on August 25, 2017 and September 5, 2017.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption and amendment of the above-referenced rules will not significantly and directly impact small businesses. Documentation of the department's determination is available at [revenue.mt.gov/rules](http://revenue.mt.gov/rules) or upon request from the person in 5.

/s/ Laurie Logan  
Laurie Logan  
Rule Reviewer

/s/ Mike Kadas  
Mike Kadas  
Director of Revenue

Certified to the Secretary of State September 11, 2017.