

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING ON
Rule I pertaining to the employer) PROPOSED ADOPTION
apprenticeship tax credit)

TO: All Concerned Persons

1. On October 12, 2017, at 1:30 p.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed adoption of the above-stated rule. The hearing room is most readily accessed by entering through the east doors of the building facing Sanders Street.

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, contact the department no later than 5 p.m. on October 2, 2017, to advise us of the nature of the accommodation you need. Please contact 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.

3. The rule as proposed to be adopted provides as follows:

NEW RULE I EMPLOYER APPRENTICESHIP TAX CREDIT (1) Subject to the restriction that apprenticeship tax credits may not exceed the taxpayer's total tax liability, the total amount of credit an employer participating in a state-registered apprenticeship training program may claim is determined by the Montana Department of Labor and Industry (DLI). The department can only adjust the total credit allocation among the owners of an S corporation, partnership, or limited liability company in order to conform to 15-30-2357 and 15-31-173, MCA, and this rule.

(a) If the employer is an S corporation, the shareholders' share of the total credit is based on their pro rata share of income or loss.

(b) If the employer is a partnership or a limited liability company that is taxed like a partnership, the partners' or members' share of the total credit is based on the their distributive share of the entity's income or loss reported for Montana income tax purposes.

(2) A taxpayer who files a tax return on a calendar year basis shall claim the credit for the tax year in which the DLI approved the credit.

(3) A taxpayer who files a tax return on a fiscal year basis shall claim the credit allowed for the calendar year that ends within the taxpayer's fiscal period.

(4) The taxpayer shall include copies of all tax certification numbers, agreements, DLI approval notice, and supporting documents when filing their return. If the return is filed electronically using software that does not support attachments,

the taxpayer shall retain the information and provide it to the department upon request.

(5) When reviewing a claim for the credit, the department may request additional information to determine a taxpayer's eligibility for the allocation of the credit being claimed. This information may include, but is not limited to:

- (a) a Montana Schedule K-1 issued by a partnership, S corporation, or fiduciary indicating the partner, shareholder, or beneficiary's share of the credit; or
- (b) a return filed by a partnership, S corporation, or fiduciary including information showing the owners of the entity.

AUTH: 15-30-2357, 15-31-501, MCA

IMP: 15-30-2357, 15-31-173, 39-6-109, MCA

REASON: The department proposes adopting New Rule I to implement House Bill 308, L. 2017 (15-30-2357, 15-31-173, and 39-6-109, MCA), which provides a credit to employers for creating new or expanding existing apprenticeship opportunities within their organization.

The Montana Department of Labor and Industry is responsible for taking applications and approving the credit for each eligible employer. Rules related to the application and approval process will be established by that agency.

The department shall review a claim for credit and determine that the amount approved is the amount claimed. Additionally, the department may determine that the amount of credit allocated to a taxpayer from a pass-through entity is correct. As proposed, the new rule outlines how a partnership or S corporation allocates the credit to partners and shareholders.

The department also proposes that the taxpayer must submit documentation supporting the claimed credit with their tax return. If a taxpayer's electronic filing software does not support attachments, the taxpayer must retain the records and provide the documentation upon request from the department.

As proposed, the rule also provides guidance for situations where there is a timing difference because an employer operates on a fiscal year.

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: 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.

5. Dan Whyte, Department of Revenue, Director's Office, has been designated to preside over and conduct this 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 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 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 revenue.mt.gov/rules, or through the Secretary of State's web site at sos.mt.gov/ARM/register.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary sponsor of House Bill 308, Representative Casey Schreiner, was contacted by regular mail on June 14, 2017, and subsequently notified on August 29, 2017 and September 5, 2017.

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

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State September 11, 2017.