

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 42.19.1235 and 42.20.511 and)	PROPOSED AMENDMENT AND
the repeal of ARM 42.19.1201,)	REPEAL
42.19.1202, 42.19.1203, 42.19.1204,)	
42.19.1205, 42.19.1211, 42.19.1212,)	
42.19.1213, 42.19.1221, 42.19.1222,)	
42.19.1223, 42.19.1224, and)	
42.22.1305 pertaining to Industrial)	
Property)	

TO: All Concerned Persons

1. On January 18, 2024, 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 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 5:00 p.m. on January 4, 2024. Please contact Kassie Hawbaker, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-0365; fax (406) 444-3696; or kassie.hawbaker@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY. The 68th Montana Legislature enacted Senate Bill 46 (SB 46) which was part of the Governor's Red Tape Relief Initiative to identify and repeal obsolete statutes. SB 46 repealed 15-6-192, MCA, pertaining to new industrial classification, and amended 15-6-135 and 15-24-1401, MCA, by removing all references to new industrial property. Historically, new industrial property classification was an incentive to reduce the tax rate for class five qualifying assets to three percent. But over time the asset's tax rate shifted lower and lower, and once it was equal to the three percent tax rate for personal property, there was no incentive for a taxpayer to apply for new industrial property classification. The classification is irrelevant, and the department has seen no applications for over 20 years.

Therefore, the department proposes to amend ARM 42.19.1235 and 42.20.511 and repeal ARM 42.19.1201, 42.19.1202, 42.19.1203, 42.19.1204, 42.19.1211, 42.19.1212, 42.19.1213, 42.19.1221, 42.19.1222, 42.19.1223, 42.19.1224, 42.22.1305 for implementation of SB 46.

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

42.19.1235 PROPERTY TAX INCENTIVE ABATEMENT FOR NEW OR EXPANDING INDUSTRY (1) through (6) remain the same.

~~(7) An applicant's property that qualifies for classification as new industrial property under 15-6-135, MCA, cannot qualify for a tax incentive pursuant to 15-24-1402, MCA, as new or expanding industry property defined in 15-24-1401, MCA.~~

(8) remains the same but is renumbered (7).

~~(9) An applicant seeking to qualify pursuant to 15-24-1401, MCA, shall include the same information and certifications as required by ARM 42.19.1222.~~

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-24-1401, 15-24-1402, MCA

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

1. Revise the catchphrase of the rule to be consistent with the language provided in 15-24-1402, MCA.

2. Strike current (7) and (9), which is necessary because the current language is specific to new industrial property classification. The amendment of 15-6-135 and 15-24-1401, MCA, removed all references to new industrial property.

3. Renumber current (8) to (7).

42.20.511 VALUATION OF CLASS FIVE REAL PROPERTY FOR QUALIFYING AIR AND WATER POLLUTION CONTROL PROPERTY, ~~NEW INDUSTRIAL PROPERTY,~~ GASOHOL FACILITIES, QUALIFYING RESEARCH AND DEVELOPMENT FIRMS, AND ELECTROLYTIC REDUCTION FACILITIES

(1) Qualifying air and water pollution control property, ~~new industrial property,~~ gasohol facilities, qualifying research and development firms, and electrolytic reduction facilities real property included in class five will be revalued annually. The department will apply an annual appraisal trending factor to the qualifying property to arrive at the market value. An annual appraisal trend factor will be calculated, using the January cost indices from the Marshall & Swift Valuation Service Guide (Marshall & Swift Guide), for the current tax year. ~~If the Marshall Valuation Service & Swift Guide is not available,~~ other accepted cost manuals or indices may be used.

(2) remains the same.

AUTH: 15-1-201, 15-7-111, MCA

IMP: 15-7-111, MCA

REASONABLE NECESSITY: In addition to the department's general statement of reasonable necessity, the department proposes to remove the words "new industrial property" from the catchphrase and in (1) since it has been removed from 15-6-135 and 15-24-1404, MCA. The department also proposes amendments to the references for the Marshall & Swift Valuation Service Guide for internal consistency with other department rules.

5. The department proposes to repeal the following rules:

42.19.1201 TREATMENT OF AGRICULTURAL PROCESSING

AUTH: 15-1-201, MCA

IMP: 15-6-135, MCA

42.19.1202 TREATMENT OF PROPERTY NOT USED AS PART OF THE
NEW INDUSTRY

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-192, 15-24-1401, 15-24-1402, MCA

42.19.1203 TREATMENT OF AIR AND WATER POLLUTION CONTROL
EQUIPMENT

AUTH: 15-1-201, MCA

IMP: 15-6-135, MCA

42.19.1204 TREATMENT OF MOTOR VEHICLES

AUTH: 15-1-201, MCA

IMP: 15-6-135, MCA

42.19.1205 DEFINITIONS

AUTH: 15-24-2405, MCA

IMP: 15-24-2403, 15-24-2404, MCA

42.19.1211 PERIOD OF CLASSIFICATION AS NEW INDUSTRIAL
PROPERTY

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-192, MCA

42.19.1212 COMMENCEMENT OF OPERATIONS

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-192, MCA

42.19.1213 CHANGES IN OPERATIONS

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-192, MCA

42.19.1221 OPINION LETTERS

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-192, MCA

42.19.1222 APPLICATION FOR SPECIAL CLASSIFICATION

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-192, 15-24-1401, 15-24-1402, MCA

42.19.1223 PROCESSING OF APPLICATION

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-192, MCA

42.19.1224 ADVERSE IMPACTS

AUTH: 15-1-201, 15-6-192, MCA

IMP: 15-6-135, 15-6-192, MCA

42.22.1305 INDUSTRIAL PROPERTY OTHER THAN LAND

AUTH: 15-1-201, MCA

IMP: 15-8-111, MCA

REASONABLE NECESSITY: In addition to the department's general statement of reasonable necessity, the department proposes to repeal ARM 42.19.1205, which inadvertently was not repealed in 2017 when the department repealed ARM 42.19.1240 regarding taxable reduction for value added property. This rule consists of one definition, "value added," which is no longer used in the subchapter.

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: Kassie Hawbaker, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-0365; fax (406) 444-3696; or e-mail kassie.hawbaker@mt.gov and must be received no later than 5:00 p.m., January 22, 2024.

7. Kassie Hawbaker, 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 was contacted by email on November 20, 2023 and December 8, 2023.

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 will not significantly and directly impact small businesses.

/s/ Todd Olson
Todd Olson
Rule Reviewer

/s/ Scott Mendenhall
Scott Mendenhall
Deputy Director of Revenue

Certified to the Secretary of State December 12, 2023.