



# Montana Department of Revenue



Dan Bucks  
Director

Brian Schweitzer  
Governor

August 21, 2012

## Delivered by Electronic Communication – Original to Follow

The Honorable Thomas W. Hanel, Mayor  
City of Billings  
PO Box 1178  
Billings, MT 59103

Dear Mayor Hanel:

I am writing with regard to your letter of July 10, 2012, sent to the Revenue and Transportation Interim Committee concerning tax protests for property located in whole or in part in the City of Billings.

Your decision to intervene in the legislative process against the Department's valuation and on behalf of a few major corporations threatens to increase property taxes for tens of thousands of homeowners and small businesses in Billings. Initially, based on 2011 data for protests by five corporations, your position would increase taxes in Billings by an average of \$97 for 39,000 homeowners and \$475 on average for 3,700 businesses. Here is how the tax shift affects homeowners with homes of different values:

Initial Impact of Corporation Tax Shift to Homeowners in Billings	
House Value	Tax Increase
\$500,000	\$276
\$400,000	\$221
\$300,000	\$166
\$200,000	\$110
\$100,000	\$55

Major businesses in and around Billings will see even larger, annual tax increases:

- Over \$10,600 for a hotel.
- Over \$19,300 for one bank and over \$11,100 for another.
- Over \$22,700 for a manufacturing firm.
- Over \$10,700 for an implement company.
- Over \$10,100 for a media company.
- Over \$11,700 for an oil field support company.
- Over \$9,400 for an assisted living center.

- Over \$37,200 for a retailer and so forth.

The numbers above reflect the tax shift associated with all county, city and school district taxes levied in Billings. The city revenues involved total about \$1.2 million annually. If the protesting corporations achieve their tax objectives, you would be faced with either cutting services by this amount, or asking your homeowners and small businesses to accept the tax increases above.

Why would you want to increase taxes on your citizens and businesses not for better public safety, improved roads and streets or greater investments in their kids' education—but simply to pay for an unjustified tax reduction for five corporations? Or alternatively, why would you ask homeowners and small businesses to pay the same taxes for fewer or lower quality services—again, simply to pay for an unjustified tax break for a few companies?

### **The Tax Shift Will Continue to Grow Dramatically**

The tax increases estimated above for homeowners and small businesses reflect only current protests. If the corporations succeed with your support in the legislature, the tax increases will grow dramatically.

One of the protesting corporations has generated a report advocating legislation that would expand the tax shift several fold by granting unprecedented tax breaks for all major corporations. The report proposes shredding 80 years of established centrally assessed property practices and allowing corporations to determine what part of their property will be subject to taxation and how their property would be valued. In effect the proposals would allow corporations to decide for themselves what their taxes will be. State appraisers would be limited to determining market value for homes and small businesses, but would be stripped of any real ability to determine the market value of large corporate property. In short, there would be one set of required rules for ordinary taxpayers, and a system of voluntary valuation and taxation for large companies.

The net result of these recommendations will be to increase taxes several times the amounts indicated above. The final impact would be either tax increases for Montana homeowners and small businesses running to several hundred to thousands of dollars each year—or draconian cuts in local services and education—or some combination of the two.

The Department of Revenue is responsible under the law for valuing property at market value. We are confident that our appraisals conform to that market value standard and that the protests by a handful of corporations are without any substantial merit. The position taken by these corporations in both the legislative and appellate process would unjustifiably reduce their property values between 50% and 85% below market value, and their tax savings would come from other property taxpayers in Yellowstone County when the mills increase to fill the County budget.

We have already achieved predictability and stability in Montana. The Department values Yellowstone refineries using the same “cost trended and depreciated” method it has used for decades—with no changes in rules or practices. For centrally assessed properties, the

Department uses the same basic unit valuation methods dating back to at the 1930s and upheld since by the Montana Supreme Court. When the Supreme Court (in the *PPL Montana* and *Pacificorp* cases) and other appellate bodies reaffirmed those methods in recent cases, the Department codified its stable, established practices in rule form with no change in direction. Your statements concerning “unpredictability and unexpected changes” are simply false.

### **Length of Appeals Process**

Your letter of July 10 does not mention the time these protests are taking. Yet we know from other communications that this topic is a concern. The Department supports the taxpayer’s right to appeal assessments. However, the taxpayers that are responsible for your largest protests have chosen to unnecessarily delay these cases by a matter of years.

When a taxpayer receives its tax assessments, they typically have two choices: to pay their taxes or to protest through the normal county and state tax appeals process and then on to court if necessary. More recently, attorneys for large corporations have developed a third, more convoluted and lengthy path of bypassing the normal appeals board process, splitting off some allegedly “purely legal issues,” running those issues up through the courts, then returning to the regular appeals board process for the rest of the case and then back up through the courts a second time.

The third path is really not a choice for the vast majority of approximately 900,000 Montana property taxpayers. Only the most privileged and powerful can afford it. But this third path is the one chosen by four of the five protesting corporations in the Billings area. We do not know why they have made this choice. [Perhaps it is because the normal appeals process has often upheld the validity of the Department’s valuation practices for centrally assessed companies. Or maybe they want to tie up funds in protest long enough to get local officials to pressure either the Department or Legislature into giving them the tax reductions they seek. We don’t know.] What we do know is that they have added years to the tax appeals process and that the Department is powerless to reverse their choice—unless we abdicate our legal duty to equalize property values for all taxpayers by simply giving these companies the reductions they seek.

I can assure you that consistent with our legal duty to defend values we believe are correct, the Department is doing its best to move these cases forward as expeditiously as possible. But the corporations have chosen a lengthy route with many twists and turns. Nevertheless, the Department has sought to limit requests of the courts for added time to instances where corporations have failed to produce required information or when the corporate attorneys have subjected the Department to last minute surprises.

I can also assure you that we will protect Montana taxpayers by not settling these cases in ways that undermine fairness and equity for all taxpayers under the law. One company wants us to ignore nearly a half a billion dollars of new property it installed in the Billings area over four years and to agree to set its values lower than before it made those investments. Another company tells the federal government and Montana customers that they are a telecommunications company (the best in Montana according to their ads), but wants us to pretend that they are not a telecommunications company and agree to grant a

large, unfair tax advantage that allows them to take customers away from their competitors. And their competitors have previously sued the Department for failing to be prompt enough in leveling the playing field. These cases cannot be settled when what is being sought is so contrary to the facts, common sense and tax fairness.

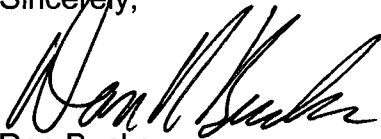
The truth is that the corporations have increased their investments in new property in Montana and/or have changed the use of their property. Either way, it's the economic and business decisions of the companies that have changed their property tax values, and not any changes by the Department in its practices.

A few years ago, your colleagues on the Yellowstone County Commission called me to a public meeting to make certain that we placed all new homes on the tax rolls in the Lockwood Fire District. County officials said it was only fair that new houses should share in financing the local services from which they benefit. We agreed. So it baffles me to now find the Billings area elected officials criticizing the Department simply for placing new corporate-owned property on the tax rolls or for taking account of changes in the use of other property. Are we to conclude that Billings area officials believe that when homeowners or small businesses add to or change their property, those changes should be reflected in tax assessments, but when large corporations do the same, only to a larger degree, the Department of Revenue should turn a blind eye and pretend that nothing has happened?

Your July 10 letter reflects your decisions to intervene in appraisal issues that would produce serious, statewide consequences for citizens, businesses, and Montana governments. The public has a right to know the basis for that decision. Accordingly, we will be submitting to you a formal request for all information, minutes of meetings, public notices, notes of conversations and contacts received or made and other similar items pertaining to your decision.

Thank you for your attention to this matter regarding fairness in taxation for Montanans.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Bucks". The signature is stylized and cursive.

Dan Bucks  
Director of Revenue