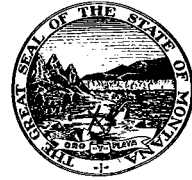




Dan Bucks
Director

Montana Department of Revenue



Brian Schweitzer
Governor

MEMORANDUM

Date: January 31, 2012
To: Members of the Revenue and Transportation Interim Committee
From: Dan Bucks, Director *Dan Bucks*
Subject: HJR 23

The following is the response to a question posed at the December 9, 2011, committee meeting.

How can the DOR "grant" an exemption for Business Equipment under the current law?

Current law requires the department to exempt business equipment in certain instances.

The legislature has provided, under statute, that business equipment be exempt in certain instances and the department is responsible for administering that statute as written by the legislature.

For example, property that is "used exclusively for nonprofit healthcare facilities" or "directly used for purely public charitable purposes" is exempt under Section 15-6-201, MCA. "Property" includes both real and personal property at Section 15-1-101(p), MCA. Business equipment is personal property. Business equipment used solely for an exempt category is also exempt under the law.

For example, the statutory standard for the health care facilities exemption is "exclusive use" and not "ownership", Section 15-6-201(1)(g). Thus, property leased by a healthcare facility from another party is eligible for exemption as long as the property is used exclusively by the healthcare facility for medical purposes.

MCA 15-6-138(5), provides that an individual or business entity that owns an aggregate of \$20,000 or less in market value of personal property is exempt from taxation. ARM 42.21.158(2) explains how the department administers this statutory exemption. Business equipment is personal property and is therefore exempt up to an aggregate market value of \$20,000.

Therefore, the law allows business equipment to be exempt from taxation.