

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I pertaining to requests for nondisclosure of property owner record information) NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION)))

TO: All Concerned Persons

1. On September 13, 2016, at 1 p.m., the Department of Revenue will hold a public hearing in the Third Floor PAD 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 August 26, 2016, 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 proposed to be adopted provides as follows:

NEW RULE I NONDISCLOSURE OF PROPERTY RECORD INFORMATION

(1) Information obtained and records prepared in the course of property tax administration in Montana are available to the public, including the property owner's name. An individual who is at risk of physical harm or to their personal safety may have a reasonable expectation of privacy. A qualified property owner, as defined in (2), may request that the department withhold the name of the owner from the department's web sites upon demonstrating that the right of the individual's privacy clearly exceeds the public's right to access property records.

(2) A "qualified property owner," for the purposes of this rule, means an individual who:

(a) owns real property that is listed on the department's online web application located at svc.mt.gov/dor/property; and

(b) can demonstrate that their name, if published with the property record, will create a risk of physical harm or a threat to the safety of the individual.

(3) A qualified property owner must apply for nondisclosure of their name on the department's web sites using an application form provided by the department. In addition to the application, the applicant shall submit:

(a) a statement explaining the reason(s) for the nondisclosure request; and

(b) documentation supporting the reason(s) that the individual's name should be withheld.

(4) After receipt of the application, the nondisclosure request statement, and

the supporting documentation demonstrating individual safety concerns, the department will weigh the asserted privacy interest against the public's right to know to determine if the information should remain public or be maintained as confidential. The department will advise the individual and the local department office of its determination, in writing, within 30 days of receipt of the completed application materials.

(5) If approved for nondisclosure status, the individual's name will be withheld from the department's online web application located at svc.mt.gov/dor/property. The Montana State Library, which obtains property record data from the department, will also withhold the individual's name from the Montana Cadastral online web application located at svc.mt.gov/msl/mtcadastral. However, property record data, including the property owner's name, may remain available on other state or county web applications or web sites or any other media outside the department's or the Montana State Library's control.

(6) The department may not withhold from public scrutiny any more information than is required to protect an individual privacy interest.

(7) Qualified property owners who have been approved for nondisclosure status will be required to submit a renewal application with supporting documentation by May 31 of every odd-numbered calendar year thereafter, for consideration and approval by the department. Examples of when a qualified property owner needs to reapply to maintain nondisclosure status are:

(a) Example 1: applicant is approved for nondisclosure status on July 1, in an odd-numbered calendar year. The nondisclosure status is in effect until May 31 of the next odd-numbered calendar year, or 23 months.

(b) Example 2: applicant is approved for nondisclosure status on July 1, in an even-numbered calendar year. The nondisclosure status is in effect until May 31 of the following year, which is an odd-numbered calendar year, or 11 months.

(8) If the renewal application required in (7) is not timely received or is not approved by the department, the individual's name will appear on the department's online web application located at svc.mt.gov/dor/property and the Montana Cadastral online web site located at svc.mt.gov/msl/mtcadastral by June 1.

(9) The property owner's name will always remain on the department's Computer Assisted Mass Appraisal (CAMA) property tax system, used for property tax administration purposes. The information in the CAMA property tax system will remain available to local county and city governments for tax administration purposes, and to contractors and vendors who have entered into agreements with the department to access the system.

AUTH: 15-1-201, MCA

IMP: 2-6-1003, MCA, Montana Constitution, Art. II, Sections 9 & 10

REASON: The department proposes adopting New Rule I to allow the department to withhold information relating to a property owner from the public pursuant to 2-6-1003, MCA, for reasons of individual safety. Over the last ten years, the department has not had standards for when police officers, state and federal judges, and other members of the public have requested that the department not disclose their names on the department's web application or the Montana Cadastral

online web application due to safety concerns. In considering whether to approve or deny each request, no standard existed to determine whether there was a perceived or potential threat against the individual. Approval was typically granted to judges or individuals with valid court orders of protection. Prior to 2015, twenty individuals applied and were removed from the web applications. In 2015, the department received and approved another 200 requests. Due to the increase in the number of requests, the department now proposes the adoption of New Rule I to provide a uniform procedure for processing these requests and withholding names only for verified reasons related to individual safety.

As proposed, New Rule I provides a process for individuals to request removal of their name from the department's online web application and the Montana State Library's Montana Cadastral online web application due to a potential risk to the individual's safety. To apply, the individual must submit to the department a form requesting nondisclosure, a statement explaining the reason(s) for the nondisclosure request, and supporting documentation. Once an individual asserts that there is a potential risk to the individual's safety and requests nondisclosure, the department will consider whether the individual's right to privacy outweighs the public's right to know. The department will advise the individual and the local department office of its determination, in writing, within 30 days of receipt of the completed application. If approved, the department will withhold the individual's name from its online web application for a period of time. In addition, the Montana State Library will withhold the individual's name from the Montana Cadastral online web application. Withholding data on these public web sites will not prevent other media sources from disclosing the applicant's information. Applicants are required to reapply for approval every odd-numbered calendar 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 September 27, 2016.

5. Laurie Logan, 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. The department strives to make the electronic copy of this

notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

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 August 8, 2016.