

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I and the amendment of ARM 42.20.106 pertaining to golf course valuation)
) NOTICE OF PUBLIC HEARING ON
) PROPOSED ADOPTION AND
) AMENDMENT
)

TO: All Concerned Persons

1. On September 13, 2016, at 2:30 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 and amendment of the above-stated rules. 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 GOLF COURSE VALUATION (1) The department will determine the market value of golf courses using one of the following three valuation methods: income approach to value, sales comparison approach to value, and cost approach to value. The method used will be dependent upon whether sufficient data is available.

(2) When using the income approach, the department will determine market value using a gross income multiplier (GIM), as defined in ARM 42.20.106. Using a GIM, market value is derived by multiplying the gross income (GI), as defined in ARM 42.20.106, by the GIM. Use of a GIM is preferred if:

- (a) the highest and best use of the property will not change over the remaining economic life of the property;
- (b) the subject property and comparable sales are similar; and
- (c) enough sales and gross income data exists to determine an accurate market value.

(3) A taxpayer owning or operating a golf course must submit yearly gross income from all aspects of the golf course operation, including, but not limited to: greens fees, cart rentals, and food and beverages.

(4) If a taxpayer fails to provide yearly gross income information, the department will estimate the total gross income based on the potential number of rounds that can be played in a typical season, multiplied by the average cost per

round, and adding an estimate of income generated by all other golf course operations.

(5) The department will not reduce the estimated value of the property if the taxpayer fails to submit the information required by (3).

(6) When using the sales comparison approach, the department will determine market value by comparing arm's-length sales of similar golf courses from realty transfer certificates, realtors, fee appraisers, multiple listing services and/or nationally recognized publications. The sales comparison approach is preferred if enough recent sales of similar properties exist to determine an accurate market value.

(7) If the department uses the sales comparison approach in (6), the department will look for golf course sales from the subject's market area. If sufficient, relevant information does not exist within the market area the department will seek golf course sales statewide. If sufficient, relevant information does not exist statewide, the department will seek golf course sales in surrounding states and/or regional areas.

(8) When using the cost approach, the department will determine the market value of the golf course improvements such as bunkers, tees, fairways, roughs, drainage and irrigation systems, and course design using the cost tables identified in the Marshall & Swift Valuation Service Manual for the year of reappraisal as well as industry-established guides such as National Golf Course Owners Association, Club Managers Association of America, or American Society of Golf Course Architects to establish the total replacement cost new less depreciation. The Marshall & Swift Valuation Service Manual is published by Marshall & Swift Valuation Service, 777 South Figueroa St., 12th Floor, Los Angeles, California 90017.

(9) If the department uses the cost approach, land will be valued using the sales comparison approach to value. The department will analyze sales of similarly situated parcels, in the subject golf courses market area, that occur within a specific time frame.

AUTH: 15-1-101, MCA

IMP: 15-8-306, MCA

REASON: The department proposes adopting New Rule I to identify the method the department will use to value golf courses. This proposed method will allow the department to consistently and equitably value golf courses statewide. The proposed rule explains the valuation methodologies and how the department will apply the appraisal methods to land and improvements in golf course valuation depending upon available data.

The Montana Tax Appeal Board (board) has heard a number of appeals in the past few years by golf course owners challenging the department's valuations. The board has ruled that the method currently used by the department does not sufficiently identify all forms of depreciation. Therefore, the department is proposing this rule to introduce a statewide standard approach to golf course valuation.

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

42.20.106 DEFINITIONS The following definitions apply to this subchapter:

(1) through (11) remain the same.

(12) "Gross income" means the anticipated income from all operations of the real property before vacancy and operating expenses.

(13) "Gross income multiplier" means the ratio between the sales price of similar properties including golf courses and the gross income of the subject property.

(12) through (23) remain the same, but are renumbered (14) through (25).

AUTH: 15-1-201, 15-6-231, 15-7-111, MCA

IMP: 15-6-101, 15-6-232, 15-7-111, 15-7-112, 15-7-304, 15-7-306, 15-9-101, 15-24-1501, MCA

REASON: The department proposes amending ARM 42.20.106 to add definitions for "gross income" and "gross income multiplier," two terms used in the new golf course valuation rule being proposed in this same notice that will be placed in this subchapter in ARM Title 42 covering the valuation of real property.

5. 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.

6. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct this hearing.

7. 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 5 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.

8. 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.

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

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption and amendment of the above-referenced rules 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 5.

/s/ Laurie Logan

Laurie Logan
Rule Reviewer

/s/ Mike Kadas

Mike Kadas
Director of Revenue

Certified to the Secretary of State August 8, 2016.