

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the repeal of ARM) NOTICE OF PROPOSED
42.31.501 and 42.31.507 pertaining) REPEAL
to the taxation of internet revenue)
) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. The Department of Revenue proposes to repeal the above-stated rules.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5 p.m. on June 23, 2017, 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 department proposes to repeal the following rules:

42.31.501 DEFINITIONS

AUTH: 15-53-155, MCA
IMP: 15-53-129, MCA

REASON: The department proposes repealing ARM 42.31.501 because the terms defined in the rule are specific to ARM 42.31.507, which is also proposed to be repealed in this same notice.

42.31.507 TAXATION OF INTERNET REVENUE

AUTH: 15-53-155, MCA
IMP: 15-53-137, MCA

REASON: The department proposes repealing ARM 42.31.507 because the 2016 passage of the Customs Reauthorization Act (Act), House Resolution 644, by the 114th Congress of the United States renders the rule no longer necessary. The Act contains a preemption of state tax authority known as the Permanent Internet Tax Freedom Act, or PITFA, which prohibits all state and local governments from imposing taxes on Internet access or on certain electronic commerce.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing 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 July 7, 2017.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Laurie Logan, at the above address, no later than 5 p.m., July 7, 2017.

6. If the department receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected is 23, based on 234 retail telecommunications excise tax filers in 2016.

7. The department 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, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

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 repeal of the above-referenced rules will not significantly and directly impact small businesses, as Montana does not currently impose tax on internet service and will continue that practice.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State May 30, 2017.