

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 42.19.1104 pertaining to tax	)	PROPOSED AMENDMENT AND
exemptions for nonfossil energy	)	REPEAL
systems, the repeal of ARM	)	
42.19.1240 pertaining to taxable rate	)	
reductions for value-added property,	)	
and the repeal of ARM 42.19.1301	)	
and 42.19.1302 pertaining to the	)	
department's notification of property	)	
tax liens	)	

TO: All Concerned Persons

1. On August 24, 2017, at 1:30 p.m., the Department of Revenue will hold a public hearing in the Third Floor East Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the amendment and repeal 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 14, 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 rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

42.19.1104 PROPERTY TAX EXEMPTION FOR NONFOSSIL ENERGY SYSTEM (1) The property owner of record, or the property owner's agent, must make application to the local department office for classification as a nonfossil form of energy generation. ~~Application will be made on a form available on the department's website or from the local department field office before March 1 or within 30 days of receipt of an assessment notice, whichever~~ from the date on the classification and appraisal notice, whichever is later, to be considered for exemption for the current tax year.

(2) When a completed application is received by the local department field office, the department staff will adhere to the following procedures:

(a) The energy system will be inspected and the application considered in time to assure that any exemption will affect the property's value in the earliest possible tax year following the date of application.

(b) If the energy system is completed prior to March 1 of a year, the

application must be filed by March 1 or within 30 days of receipt of an assessment notice, ~~which ever~~ from the date on the classification and appraisal notice, whichever is later, of that year in order for an exemption to apply for the full ten-year period.

(c) If the energy system is completed after March 1 of a year, the application must be filed by March 1 or within 30 days of receipt of an assessment notice, ~~which ever~~ from the date on the classification and appraisal notice, whichever is later, of the next year in order for an exemption to apply for the full ten-year period.

(d) If an applicant misses the deadlines outlined above, ~~he~~ they will lose one year of exemption potential for every deadline date that passes. For example:

(i) If an individual completes installation of an energy system in the current year, but does not apply for an exemption within 30 days from the date on the classification and appraisal notice, the exemption would start on January 1 of the following year and be allowed for a total of nine years. February 2001, but does not apply for exemption until July 2001 (which is more than 30 days after receiving the assessment notice), the individual has a total exemption potential of only nine years (the property tax exemption would be allowed for nine years - 2002 through 2010).

(ii) If the individual completes installation of an energy system in July 2001, of the current year, but does not apply for an exemption until April 2003, two years later, the individual has a total exemption potential of only eight years (the property tax exemption would be allowed for eight years - 2003 through 2010).

(e) and (3) remain the same.

AUTH: 15-1-201, MCA

IMP: 15-6-224, 15-32-102, MCA

REASON: The department proposes amending ARM 42.19.1104(1) and (2) to better define the time period for filing an exemption request by replacing the reference to "receipt of the notice" with language to make it clear that the 30 days begins from the date on the classification and assessment notice. By referencing the notice date, the starting point is clear for all involved. The department sends classification and assessment notices out in advance of the date on them to allow for mailing time. The department further proposes striking the reference to "field" office in (1), because it is outdated terminology.

The department also proposes adding the word "energy" ahead of "system" in (2)(a) through (c) for clarity and consistency regarding use of this term throughout the rule, and proposes updating the language in (2)(d) to remove unnecessary words and outdated calendar year references from the examples to make them easier to understand and applicable to all calendar years.

The proposed amendments to this rule are unrelated to the actions being proposed for other rules in this notice to implement new legislation.

4. The department proposes repealing the following rules:

42.19.1240 TAXABLE RATE REDUCTION FOR VALUE ADDED PROPERTY

AUTH: 15-24-2405, MCA

IMP: 15-24-2401, 15-24-2402, 15-24-2403, 15-24-2404, MCA

REASON: The department proposes repealing ARM 42.19.1240 as a matter of housekeeping. The value-added manufacturing tax rate reduction that had been provided for in 15-24-2401 through 15-24-2405, MCA, was repealed by the 2013 Legislature. Therefore, the department proposes repealing this rule because it is outdated and no longer supported or necessary.

42.19.1301 DEFINITIONS

AUTH: 15-1-201, MCA

IMP: 15-17-212, 15-17-323, MCA

REASON: The department proposes repealing ARM 42.19.1301 because the terms defined in the rule are exclusive to ARM 42.19.1302, which is also proposed to be repealed in this same notice due to the enactment of House Bill 18, L. 2017, which removed the department from the notification process for property tax liens.

42.19.1302 FORM

AUTH: 15-1-201, MCA

IMP: 15-17-212, 15-17-323, MCA

REASON: The department proposes repealing ARM 42.19.1302 due to the enactment of House Bill 18, L. 2017, which revised tax lien and tax deed laws. Changes to 15-17-212 and 15-17-232, MCA, removed the department from the notification process for property tax liens and rendered the form and instructions provided for in this rule no longer necessary.

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](mailto:lalogan@mt.gov) and must be received no later than September 5, 2017.

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](http://revenue.mt.gov/rules), or through the Secretary of State's web site at [sos.mt.gov/ARM/register](http://sos.mt.gov/ARM/register).

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary sponsor of House Bill 18, L. 2017, Representative Tom Jacobson, was contacted by regular mail on June 14, 2017 and July 7, 2017.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment and repeal 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](http://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 July 24, 2017.