

**Complete Shaded Areas**

Form last update 1/18/2012

**Proposed 2013 Session Legislation**

<b>Agency Name &amp; No:</b>	Department of Revenue - 5801		
<b>Priority Number:</b>	7	<b>Filename:</b>	5801\05-007
<b>Short Title:</b>	Create individual liability for trust taxes		
<b>Agency Contact Person/Phone:</b>	Steve Austin/444-1479		

**1. Purpose:**  
To ensure the proper collection of lodging facility (sales), lodging facility (use), rental vehicle, retail telecommunications taxes and withholding taxes.

**2. Background:**  
This legislation would improve collections by creating individual liability for officers and certain individuals of business entities for lodging facility (sales), lodging facility (use), rental vehicle and retail telecommunications taxes similar to what exists in statute for withholding taxes. Under current state statute for withholding taxes, 15-30-2503, MCA, certain corporate officers, partners in a partnership, certain members of limited liability companies and managers of manager-managed limited liability companies are jointly and severally liable with the business entity for the tax, interest and penalties. The legislation would also create personal liability for employees of corporations responsible to collect, truthfully account for and pay the lodging facility (use), retail telecommunications taxes and withholding taxes similar to what exists in statute for sales taxes (15-68-811(2)(b), MCA). It is standard practice across the nation to impose individual owner, officer and employee liability for trust taxes; i.e. withholding and sales taxes. These taxes belong to the state at the time the transaction occurs and it is essentially a theft to not submit these taxes when due.

**3. Fiscal Impact by Fund Type:** *This impact should be as specific as possible.*  
The impacts of the proposed legislation would be deposited to the state general fund for all tax types named above except for the lodging facility use tax which is deposited in five state special revenue funds by varying percentages. It is estimated the accounts receivables for these taxes would decrease by 30% if this legislation is passed.

**4. Summary Checklist [Check & complete all that apply]--**

<input type="checkbox"/> Housekeeping Only	<input type="checkbox"/> Federal Requirement	<input type="checkbox"/> Audit Recommendation (Audit No. <input type="text"/> )	<input type="checkbox"/> Major Legislation
<input checked="" type="checkbox"/> Anticipated to be Controversial Legislation	<input type="checkbox"/> Bill Draft has been included in Legislation Submittal (if available)		
<input type="checkbox"/> Supports Submitted EPP Item Number: <input type="text"/>	<input type="checkbox"/> Local Government Fiscal Impact		
<input type="checkbox"/> Increases FTE, or <input type="checkbox"/> Decreases FTE by	List FTE amount and program <input type="text"/>		
<input checked="" type="checkbox"/> Increases Existing Revenue	<input checked="" type="radio"/> Tax	<input type="radio"/> Fee	<input type="radio"/> Penalty [amount in #3]
<input type="checkbox"/> Decreases Existing Revenue	<input type="radio"/> Tax	<input type="radio"/> Fee	<input type="radio"/> Penalty [amount in #3]
<input type="checkbox"/> Establishes New Revenue	<input type="radio"/> Tax	<input type="radio"/> Fee	<input type="radio"/> Penalty [amount in #3]
<input type="checkbox"/> Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):	<input type="text"/>		
<input type="checkbox"/> Legislation would affect other state agencies (list):	<input type="text"/>		
<input checked="" type="checkbox"/> Special Interest Groups Affected (list):	Tax preparers, innkeepers, rental car companies		
<input type="checkbox"/> Other:	<input type="text"/>		