

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 42.19.401, 42.19.402, and)	PROPOSED AMENDMENT AND
42.19.405 and the transfer and)	TRANSFER AND AMENDMENT
amendment of ARM 42.19.501 and)	
42.19.503 pertaining to property tax)	
assistance programs)	

TO: All Concerned Persons

1. On September 6, 2016, at 9 a.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment and transfer 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 22, 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 rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

42.19.401 PROPERTY TAX ASSISTANCE PROGRAM (PTAP) (1) The property owner of record or the property owner's agent must make application to the local department office to receive the PTAP benefit provided for in ~~45-6-302~~ 15-6-305, MCA.

(2) The benefit is administered through a reduced property tax rate that applies to the first \$200,000 or less of the appraised value of the applicant's residential real property.

(a) The reduced property tax rate does not apply to separately described or assessed parcels of land that do not support the primary residential improvements, regardless of whether those parcels of land are contiguous with or adjacent to the primary residential property.

(b) Eligible property may include a mobile or manufactured home and the separately assessed land upon which the mobile or manufactured home is located only if the mobile or manufactured home and land are both owned by the applicant. To be eligible, the

~~The~~ property must be:

(i) owned by the applicant; or ~~be~~

- (ii) under contract for deed; and be
- (iii) used as the applicant's primary residence.

(3) A taxpayer's primary residence is a dwelling in which the taxpayer can demonstrate they lived at least 7 months of the year for which the assistance is claimed. The primary residence:

(a) must be the only residence for which the taxpayer claims property tax assistance; and in a given tax year. If the taxpayer owns and lives in one Montana dwelling

~~(b) may include more than one Montana dwelling when the taxpayer resides in one dwelling for less than 7 months during the tax year and in another Montana dwelling for less than 7 months of the same tax year, and the total between the two dwellings is at least 7 months of that year~~ the time in both dwellings can be combined to meet the 7-month requirement. In addressing such situations:

(i)(a) the department will apply the full year benefit to the primary residence that the qualified applicant owns and occupies when their property taxes are billed; and

(ii)(b) when such property transfers the department will notify the seller that they must provide their new property information to the department before the department will transfer the benefit to the applicant's new home.

(4) through (10) remain the same.

~~(11) In non-reappraisal years, the April 15 application deadline is waived if a first-time applicant forwards an application to the department postmarked before July 4.~~

(12) remains the same, but is renumbered (11).

~~(13)~~(12) The department shall may coordinate with the Social Security Administration and the Veterans Affairs Administration ~~in developing its process for verifying to verify~~ the income and eligibility of applicants and participants.

(14) through (16) remain the same, but are renumbered (13) through (15).

AUTH: 15-1-201, 15-6-302, MCA

IMP: 15-6-301, 15-6-302, 15-6-305, MCA

REASON: The department proposes amending ARM 42.19.401 to update the rule language to correct a previous amendment to the rule and better clarify how the department administers PTAP benefits, as follows.

Section (1) is proposed to be amended to correct a statute citation error.

Section (2) is proposed to be amended to restore language that was inadvertently removed from the rule when it was amended in 2015, in MAR notice number 42-2-936, as part of the implementation of Senate Bill (SB) 157, L. 2015 which generally revised tax reappraisal laws. Specifically, the language concerning separately described or assessed parcels, as was located in (3) of the rule prior to the 2015 amendment, should have remained in the rule when the department removed the 5-acre land limitation to correspond with that change in the law. The department believes it is important to restore the language concerning separately described or assessed parcels of land for two reasons. First, 15-6-301(7), MCA, only allows the benefit for the land and improvements of a taxpayer's primary residence. The department interprets the language in the statute as appropriately

excluding separately described or assessed parcels of land that do not support the primary residential improvements. Second, the department believes it is important to clearly state that such an exclusion does not apply to mobile or manufactured homes and the separately assessed land upon which the mobile or manufactured home is located if they are both owned by the applicant.

Section (3) is proposed to be amended to make it easier to understand how the situation will be administered when an applicant sells one home and purchases another home in the same year. Section (11) is proposed to be deleted because the property owner may receive a waiver of the April 15 deadline in any year, not only a non-reappraisal year. Section (13) is proposed to be amended to replace the word "shall" with "may" due to the Social Security Administration and Veterans Affairs Administration inability to verify income in every instance; and to strike outdated language referring to the department's further development of a verification process because that process has since been developed.

42.19.402 INFLATION ADJUSTMENT FOR PROPERTY TAX ASSISTANCE PROGRAM (PTAP) (1) and (2) remain the same.

AUTH: 15-1-201, MCA

IMP: 15-6-191, 15-6-301, 15-6-305, MCA

REASON: The department proposes amending ARM 42.19.402 to add the acronym PTAP to the rule title for format consistency with the titles for other property tax assistance program rules in this subchapter. No changes are proposed for the rule content.

42.19.405 DEFINITIONS The following definitions apply to rules found in this chapter subchapter.

(1) remains the same.

(2) "Percentage reduction" means the amount by which the property tax rate is reduced based on the income schedule found in:

(a) remains the same.

(b) ~~ARM 42.19.503~~ 42.19.404 for the Montana disabled veteran (MDV) property tax assistance program.

(3) "Qualifying income" means the federal adjusted gross income of an applicant and an applicant's spouse, excluding capital and income losses as they appear on their Montana income tax return for the prior tax year.

(a) If the applicant did not file a Montana income tax return for the applicable year, qualifying income means the federal adjusted gross income of the applicant and the applicant's spouse, excluding capital income losses as they appear on their federal income tax return, for the applicable year.

(b) If the applicant does not have an income tax filing requirement, the applicant's qualifying income is considered to be zero.

(4) remains the same.

AUTH: 15-1-201, 15-6-302, MCA

IMP: 15-6-134, 15-6-301, 15-6-305, 15-6-311, 15-30-2101, MCA

REASON: The department proposes amending ARM 42.19.405 to update a rule number reference in (2) and to expand the definition of "qualifying income" in (3) to set forth how the department determines qualifying income for an applicant that doesn't file a Montana tax return or doesn't have an income tax filing requirement at all. The amendment will allow the department to verify income for residents moving into the state who did not file a Montana tax return in the prior year and provide the department with the ability to verify the property owner's income using their federal income tax return.

The department further proposes amending the lead-in statement for the rule to change the word "chapter" to "subchapter" to more specifically identify the location of the terms defined in the rule.

4. The rules as proposed to be transferred and amended provide as follows, new matter underlined, deleted matter interlined:

42.19.501 (42.19.403) MONTANA DISABLED VETERAN (MDV) PROPERTY TAX EXEMPTION ASSISTANCE PROGRAM FOR QUALIFIED
DISABLED VETERANS

(1) The property owner of record or the property owner's agent must make application to the local department office to ~~obtain a property tax exemption under the Montana Disabled Veteran (MDV) program for property tax assistance~~ receive the MDV benefit provided for in 15-6-311, MCA.

(2) The ~~exemption~~ benefit applies to the residential real property of a qualified veteran or qualified veteran's surviving spouse that is owned or under contract for deed and used by a veteran or a qualified veteran's surviving spouse as a primary residence as provided for in 15-6-301 and 15-6-311, MCA.

(3) A taxpayer's primary residence is a dwelling in which the taxpayer can demonstrate they lived at least 7 months of the year for which the assistance is claimed. The primary residence:

~~(a)~~ (a) must be the only residence for which the taxpayer claims property tax assistance; ~~and~~ in a given tax year. If the taxpayer owns and lives in one Montana dwelling

~~(b)~~ (b) ~~may include more than one Montana dwelling when the taxpayer resides in one dwelling for less than 7 months during the tax year and in another Montana dwelling for less than 7 months of the same tax year, and the total between the two dwellings is at least 7 months of that year~~ the time in both dwellings can be combined to meet the 7-month requirement. In addressing such situations:

~~(i)~~ (a) the department will apply the full year benefit to the primary residence that the qualified applicant owns and occupies when their property taxes are billed; and

~~(ii)~~ (b) when such property transfers the department will notify the seller that they must provide their new property information to the department before the department will transfer the benefit to the applicant's new home.

(4) remains the same.

(5) A temporary stay in a nursing home or similar facility will not change an applicant's primary residence for the purposes of the MDV program.

(a) The primary residence does not include separately described or assessed

parcels of land that do not support the primary residential improvements, regardless of whether those parcels of land are contiguous with or adjacent to the primary residential property.

(b) If the primary residence is a mobile or manufactured home that is assessed separately from the land upon which it is located, both the mobile or manufactured home and the land upon which it is located may qualify for the benefit only if they are both owned by the applicant. If the land is not owned by the applicant, the benefit applies only to the mobile or manufactured home.

(6) through (10) remain the same.

~~(11) In non-reappraisal years, the April 15 deadline is waived if a first-time applicant forwards an application to the department postmarked before July 1.~~

(12) remains the same, but is renumbered (11).

~~(13)~~(12) The department shall may coordinate with the Social Security Administration and the Veterans Affairs Administration ~~in developing its process for verifying to verify~~ the income and eligibility of applicants and participants.

(14) through (16) remain the same, but are renumbered (13) through (15).

AUTH: 15-1-201, 15-6-302, MCA

IMP: 15-6-301, 15-6-311, MCA

REASON: The department proposes amending ARM 42.19.501 to update the rule language to clarify how the department administers the Montana Disabled Veteran (MDV) property tax assistance program benefits.

Sections (1) and (2) are proposed to be amended to remove the term "exemption" to correspond with a change that occurred with the 2015 Legislature's repeal of 15-6-211, MCA, pertaining to property tax exemptions, and relocation of the MDV program to 15-6-311, MCA, pertaining to property tax assistance.

Section (3) is proposed to be amended to allow the property owner to combine the time lived in primary residences to meet the 7-month occupancy requirement when one residence is sold and another is purchased in the same tax year.

Section (5) is proposed to be amended to restore language that was inadvertently removed from the rule when it was amended in 2015, in MAR notice number 42-2-936, as part of the implementation of Senate Bill (SB) 157, L. 2015 which generally revised tax reappraisal laws. Specifically, the language concerning separately described or assessed parcels, as was located in (3) of the rule prior to the 2015 amendment, should have remained in the rule when the department removed the 5-acre land limitation to correspond with that change in the law. The department believes it is important to restore the language concerning separately described or assessed parcels of land for two reasons. First, 15-6-301(7), MCA, only allows the benefit for the land and improvements of a taxpayer's primary residence. The department interprets the language in the statute as appropriately excluding separately described or assessed parcels of land that do not support the primary residential improvements. Second, the department believes it is important to clearly state that such an exclusion does not apply to mobile or manufactured homes and the separately assessed land upon which the mobile or manufactured home is located if they are both owned by the applicant.

Section (11) is proposed to be deleted because the property owner may receive a waiver of the April 15 deadline in any year, not only a non-reappraisal year. Section (13) is proposed to be amended to replace the word "shall" with "may" due to the Social Security Administration and Veterans Affairs Administration inability to verify income in every instance; and to strike outdated language referring to the department's further development of a verification process which is now in place.

The department also proposes amending the rule title to change the word "exemption" to "assistance," in keeping with the SB 157, L. 2015 statutory change and to include the full program name and acronym MDV in the title for format consistency with the titles of other property tax assistance rules.

The department further proposes transferring the rule to ARM Title 42, chapter 19, subchapter 4, to provide the information in the rule together with the department's other property tax assistance rules to make it easier for property taxpayers to locate the information. Subchapter 4 will be renamed "property tax assistance programs" to encompass all of the subject matter in that location.

42.19.503 (42.19.404) INFLATION ADJUSTMENT FOR QUALIFIED MONTANA DISABLED VETERAN (MDV) PROPERTY TAX EXEMPTION ASSISTANCE PROGRAM (1) Sections 15-6-301 and 15-6-311, MCA, provide a for property tax exemption or partial-exemption assistance to qualified disabled veterans. Sections 15-6-301 and 15-6-311, MCA, also require the department to annually adjust the income schedules used to determine the eligibility and the amount of exemption to account for the effects of inflation.

(2) remains the same.

AUTH: 15-1-201, MCA

IMP: 15-6-301, 15-6-311, MCA

REASON: The department proposes amending ARM 42.19.503 to update (1) and the rule title by replacing the word "exemption" with "assistance," in keeping with a statutory change that occurred with the enactment of Senate Bill 157, L. 2015, which relocated the primary statute governing the disabled veteran assistance program from Title 15, chapter 6, part 2, Tax-Exempt Property to Title 15, chapter 6, part 3, Property Tax Assistance. The department also proposes adding the full program name and acronym MDV to the rule title for format consistency with the titles of the other property tax assistance rules.

The department further proposes transferring the rule to ARM Title 42, chapter 19, subchapter 4, to provide the information in the rule together with the department's other property tax assistance rules to make it easier for property taxpayers to locate. Subchapter 4 will be renamed "property tax assistance programs" to encompass all of the subject matter in that location of ARM Title 42.

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 20, 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, apply and have been fulfilled. The primary sponsor of Senate Bill 157, L. 2015, Senator Bruce Tutvedt, was contacted by letter on July 16, 2015, and subsequently contacted by e-mail on July 13, 2016.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment and transfer 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 6.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Gene Walborn acting for
Mike Kadas
Director of Revenue

Certified to the Secretary of State July 25, 2016.