

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 42.20.173, 42.20.504,	)	PROPOSED AMENDMENT AND
42.20.505, 42.20.601, 42.20.604,	)	REPEAL
42.20.683, and 42.20.745 and the	)	
repeal of ARM 42.20.502, 42.20.503,	)	
and 42.20.516 pertaining to property	)	
reappraisal cycles, assessment	)	
review deadlines, electronic	)	
classification and appraisal notices,	)	
agricultural land regions, and bona	)	
fide agricultural operation	)	
determinations (Montana Tax Appeal	)	
Board ruling)	)	

TO: All Concerned Persons

1. On September 13, 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 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 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 rules proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

42.20.173 STATUTORY DEADLINE FOR CLASSIFICATION AND APPRAISAL REVIEWS (1) The reappraisal cycle for class three and class four property is January 1, ~~2015~~ 2017, through December 31, ~~2016~~ 2018. The department will accept requests for informal classification and appraisal reviews (Form AB-26) for class three and class four property for tax years ~~2015~~ 2017 and ~~2016~~ 2018.

(2) The reappraisal cycle for class ten property is January 1, 2015 through December 31, 2020. The department will accept Form AB-26 requests for class ten property for tax years 2015 through 2020.

(3) A property taxpayer who is dissatisfied with their property's appraised value may submit a Form AB-26 one time per reappraisal cycle. The Form AB-26 must be submitted to the local department office in the county in which the property is located within 30 days after the date on the classification and appraisal notice to be considered for the current tax year.

(2) and (3) remain the same, but are renumbered (4) and (5).

~~(4) For subsequent reappraisal cycles, beginning in tax year 2015, taxpayers~~

(6) Taxpayers may file an informal classification and appraisal review a Form AB-26 in any year of the a reappraisal cycle, but only one time during a the cycle unless the department determines that a change in value occurred and the taxpayer receives a new classification and appraisal notice during the cycle.

(7) The department will deny a property owner's Form AB-26 if no response to the department's final written request to either schedule an appointment or provide additional documentation is received within 14 working days from the date on the request.

AUTH: 15-1-201, MCA

IMP: 15-7-102, 15-7-110, 15-7-111, MCA

REASON: The department proposes amending ARM 42.20.173 to update the calendar years to match the upcoming reappraisal cycle due to the enactment of Senate Bill 157, L. 2015, which changed the reappraisal cycle for all class three and class four property from every six years to every two years beginning in tax year 2017.

The department also proposes separating (1) into three sections to more clearly lay out the review process now that there are two different reappraisal cycle lengths covered by this rule.

The department further proposes striking the reference to tax year 2015 in (4), because it is no longer necessary information to include this in the rule, and proposes amending newly numbered (6) to replace "informal assessment review" with the commonly recognized and utilized form name "AB-26" used by taxpayers to request that the department conduct a review of their assessment value.

Additionally, the department proposes adding new (7) to explain what happens if a property owner does not timely respond to the department's request for an appointment or additional information after the property owner files a Form AB-26.

42.20.504 NEW CONSTRUCTION DETERMINATION (1) through (2)(b) remain the same.

(c) properties with condition, desirability, and usefulness utility (CDU rating) rating changes;

(d) and (e) remain the same.

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

IMP: 15-7-111, MCA

REASON: The department proposes amending ARM 42.20.504 as a matter

of housekeeping to correct a word error discovered during the department's recent biennial review of its rules. The "U" in the acronym CDU stands for "utility" not "usefulness" as currently stated in the rule.

42.20.505 CLASSIFICATION AND APPRAISAL NOTICES AND VALUATION REVIEWS FOR FOREST LAND PROPERTY (1) and (2) remain the same.

(3) Beginning in tax year 2017, a taxpayer may request an electronic version of the classification and appraisal notice for future years. In such cases, the department will notify the taxpayer that the electronic notice is available and how to access the electronic notice.

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

IMP: 15-7-102, 15-7-111, MCA

REASON: The department proposes amending ARM 42.20.505 to allow the property taxpayer the option to request an electronic version of their classification and appraisal notice beginning in 2017. The department otherwise mails printed notices to the taxpayer.

42.20.601 DEFINITIONS The following definitions apply to this subchapter:

(1) through (6) remain the same.

(7) "Bona fide agricultural operation" means an agricultural enterprise in which the land actually produces agricultural crops defined in 15-1-101, MCA, that directly contribute agricultural income to a functional agricultural business, ~~consisting of contiguous parcels totaling not less than 1 acre, excluding the 1-acre site beneath a residence.~~

(8) through (14) remain the same.

~~(15) "Farm and ranch reporting form" means a department-designed personal property reporting form (PPB-3) that lists personal property and livestock used in an agricultural business.~~

(16) through (35) remain the same, but are renumbered (15) through (34).

AUTH: 15-7-111, MCA

IMP: 15-1-101, 15-6-133, 15-7-201, 15-7-202, MCA

REASON: The department proposes amending ARM 42.20.601 to strike the 1-acre requirement language from the definition of "bona fide agricultural operation" in (7), to comply with a recent Montana Tax Appeal Board ruling that determined that there is no minimum requirement of land for a bona fide agricultural operation.

The department further proposes striking (15) to remove outdated terminology. The livestock reporting and personal property reporting forms are no longer referred to as a form PPB-3, but are now separately referred to as the "Livestock Reporting Form" and the "Personal Property Reporting Form."

42.20.604 STEPS IN DETERMINING THE PRODUCTIVITY OF AGRICULTURAL LAND (1) remains the same.

(2) Productivity is adjusted to reflect, as near as possible, typical management practices for an area using the following procedures:

(a) for lands whose productivity is based on bushels of spring wheat per acre, the soil survey productivity in the following counties is adjusted on a regional basis by multiplying the soil survey productivity by the regional adjustment. The county designations and regional adjustments are as follows:

(i) Region 1: Beaverhead, Broadwater, Deer Lodge, Flathead, Gallatin, Granite, Jefferson, Lake, Lewis and Clark, Lincoln, Madison, Mineral, Missoula, Powell, Ravalli, Sanders, and Silver Bow is 0.86;

(ii) Region 2: Big Horn, Blaine, ~~Broadwater~~, Carbon, Carter, Cascade, Chouteau, Custer, Fallon, Fergus, Garfield, Glacier, Golden Valley, Hill, Judith Basin, ~~Lewis and Clark~~, Liberty, Meagher, Musselshell, Park, Petroleum, Phillips, Pondera, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Teton, Toole, Treasure, Wheatland, and Yellowstone is 0.77; and

(iii) through (e) remain the same.

AUTH: 15-7-111, MCA

IMP: 15-7-201, 15-7-202, MCA

REASON: The department proposes amending ARM 42.20.604(2) as a matter of housekeeping to correct an error discovered during the department's recent biennial review of its rules. Broadwater and Lewis and Clark counties were inadvertently listed under the wrong regions when county names were added to the rule in 2014.

42.20.683 SPECIALTY AND UNIQUE CROPS (1) and (2) remain the same.

(3) The sale of honey and other products from bees will be considered agricultural income. For valuation as agricultural land, the owner of the land must provide proof that:

(a) the landowner is registered with the Montana Department of Agriculture as a landowner an apiary; and

(b) through (5) remain the same.

(6) For valuation as agricultural land, the owner of land used as a garden or produce farm must provide proof that the garden or produce farm:

~~(a) consists of a minimum of 1 acre;~~

(b) and (c) remain the same, but are renumbered (a) and (b).

(7) The sale of Christmas trees will be considered agricultural income if the provisions of (8) are met. ~~Provisional agricultural classification will be granted for 5 years during the startup to allow time for the initial crop of trees to reach salable maturity.~~

(8) For valuation as agricultural land, the owner of land must provide proof that all trees are:

(a) ~~all trees are~~ cultivated under accepted, proven husbandry practices; and

(b) ~~all trees are~~ sheared on a regular basis; ~~and~~

~~(c) the property contains a minimum of 2,000 trees.~~

~~(9) Following the fifth year of provisional classification, the property owner must submit an application for agricultural classification.~~

~~(40)(9)~~ The property owner must include with the application documentation sufficient to prove that:

~~(a) the property continues to meet the requirements of (8); and~~

~~(b) the property produces and the owner or the owner's agent markets at least \$1,500 in gross annual income.~~

~~(41)(10)~~ A fruit tree orchard will be considered agriculture if the provisions of ~~(12)(11)~~ are met. ~~Provisional agricultural classification will be granted for 5 years during the startup to allow time for the initial crop of trees to reach salable maturity.~~

~~(42)(11)~~ For valuation as agricultural land, the owner of land must provide proof that:

~~(a) the orchard consists of contiguous parcels of land totaling not less than 1 acre;~~

~~(b) the orchard contains a minimum of 100 live fruit trees; and~~

~~(c) the orchard is maintained using accepted fruit tree husbandry practices including fencing and a watering system.~~

~~(13) Following the fifth year of provisional classification, the property owner must submit an application for agricultural classification.~~

~~(44)(12)~~ The property owner must include with the application documentation sufficient to prove that:

~~(a) the property continues to meet the requirements of (12); and~~

~~(b) the orchard produces and the owner or the owner's agent markets at least \$1,500 in gross annual income once the trees reach production maturity.~~

~~(45)(13)~~ A vineyard shall be considered agriculture if the provisions of ~~(16)(14)~~ are met. ~~Provisional agricultural classification will be granted for 5 years during the startup to allow time for the initial crop of vines to reach salable maturity.~~

~~(46)(14)~~ For valuation as agricultural land, the owner of land must prove that:

~~(a) the vineyard consists of contiguous parcels of land totaling not less than 1 acre;~~

~~(b) the vineyard contains a minimum of 120 live vines;~~

~~(c) through (e) remain the same, but are renumbered (a) through (c).~~

~~(17) Following the fifth year of provisional classification, the property owner must submit an application for agricultural classification.~~

~~(18) The property owner must include with the application documentation sufficient to prove that the property continues to meet the requirements of (16).~~

~~(19) remains the same, but is renumbered (15).~~

AUTH: 15-1-201, MCA

IMP: 15-7-201, 15-7-202, 15-7-203, 15-7-206, 15-7-207, 15-7-208, 15-7-209, 15-7-210, 15-7-212, MCA

REASON: The department proposes amending ARM 42.20.683 to clean up the language in (3)(c) by removing an unnecessary and potentially confusing second reference to "a landowner" in that sentence.

Sections (6) through (18) are proposed to be amended and/or language stricken to comply with a recent Montana Tax Appeal Board ruling that the only requirement for consideration as a bona fide agricultural operation is \$1500 in

annual gross income. The rule is further proposed to be renumbered to accommodate for the amendments.

42.20.745 FOREST LAND (1) Forest land productivity values are calculated by using the formula defined in 15-44-103, MCA.

(a) For forest land with an increase in value as a result of the 2015 reappraisal, the department will apply the phase-in percentage as defined in 15-7-111, MCA, and ~~ARM 42.20.503~~ to the full reappraisal productivity values for forest land for the reappraisal cycle beginning January 1, 2015.

(b) remains the same.

(2) The phase-in formula for each year of the reappraisal cycle is as follows:

(a) Change in value = full reappraisal value - value before reappraisal (VBR);

(b) through (3) remain the same.

(4) For value changes that are a result of newly classified forest lands or forest lands that have a decrease in acres due to a land use change, the VBR is calculated. A calculated VBR is the value of the new forest land acres as if the forest land acres had existed before reappraisal. The department phases in the difference between the calculated VBR and the value of the new forest land acres in the current cycle, at the rate of 16.66 percent for each year of the revaluation cycle.

(5) For forest lands that have a decrease or increase in acres due to land use changes that are the result of department updates from the Geographic Information System, or due to incidental fluctuations in agricultural land use due to typical farming practices, the department will use the 2014 value of the current land use as the VBR.

AUTH: 15-1-201, 15-44-105, MCA

IMP: 15-44-103, MCA

REASON: The department proposes amending ARM 42.20.745(1) to remove a reference to ARM 42.20.503 because that rule is being repealed. The relevant language from the repealed rule is proposed to be incorporated into this rule instead for ease of locating.

The department proposes amending (2) to add a reference to the acronym "VBR," which stands for value before reappraisal, to identify the term for later use in the rule as proposed to be amended.

New (4) is proposed to be added to address mixed-use properties containing both forest land and agricultural land because the land types are on different reappraisal cycles now due to the enactment of Senate Bill 157, L. 2015, which changed the reappraisal cycle length from six years to two years for all but forest land. A change in agricultural land may impact the acreage for forest land on the same parcel. If so, the department will calculate the VBR and phase in the difference as stated in the rule. This will allow for changes to forest land during the forest land's six-year reappraisal cycle.

New (5) is proposed to be added to allow parcels with mixed forest land and agricultural land to use the 2014 value as the VBR in cases where the changes to the forest land acres were due to updates in the Geographic Information System or to typical farm practices.

4. The department proposes to repeal the following rules:

42.20.502 DETERMINATION OF VALUE BEFORE REAPPRAISAL (VBR)  
FOR FOREST LAND EXCLUDING INDUSTRIAL PROPERTIES

AUTH: 15-1-201, 15-7-111, MCA  
IMP: 15-7-111, MCA

REASON: In a recent biennial review of all its rules, the department determined that ARM 42.20.502 and ARM 42.20.745, contain duplicative language. Therefore the department proposes repealing ARM 42.20.502 to eliminate this redundancy. Any remaining relevant language not already covered in ARM 42.20.745 is proposed to be added to that rule.

42.20.503 DETERMINATION OF CURRENT YEAR PHASE-IN VALUE FOR  
CLASS TEN PROPERTY

AUTH: 15-1-201, 15-7-111, MCA  
IMP: 15-7-111, MCA

REASON: The department proposes repealing ARM 42.20.503 due to the enactment of Senate Bill 157, L. 2015, which changed the reappraisal cycle for class ten property from every six years to every two years. This change eliminated the need for the phase-in calculation and therefore this rule is no longer necessary.

42.20.516 APPLICATION OF PHASE-IN PROVISIONS FOR CLASS TEN  
PROPERTIES THAT DECREASE IN VALUE DUE TO REAPPRAISAL

AUTH: 15-1-201, MCA  
IMP: 15-6-134, 15-7-111, MCA

REASON: The department proposes repealing ARM 42.20.516 due to the enactment of Senate Bill 157, L. 2015, which changed the reappraisal cycle for class ten property from every six years to every two years. This change eliminated the need for the phase-in calculation and therefore this rule is 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 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](http://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 6, 2015, and subsequently notified on July 25, 2016.

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 August 8, 2016.