

# MONTANA TAXPAYER



MONTANA TAXPAYERS ASSOCIATION

HELENA, MONTANA

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## Upcoming Meetings

Thursday & Friday, January 7 & 8 – Environmental Quality  
Wednesday & Thursday, January 13 & 14 – Water Policy  
Thursday, January 14 - Energy & Telecommunications  
Thursday, January 14 – State Tribal Relations  
Wednesday & Thursday, January 20 & 21 - Economic Affairs  
Monday, January 25 - Children, Families, Health & Human Services  
Monday, February 8 - Law and Justice  
February 18 & 19 – Revenue and Transportation  
Tuesday & Wednesday, March 2 & 3 – Legislative Audit  
Wednesday, March 3 – State Administration & Veterans' Affairs  
Thursday & Friday, March 4 & 5 - Legislative Finance  
Some of these meetings are tentative. Please check our website [calendar](#) or the [Legislative Calendar](#) for updates.

## **88<sup>th</sup> Annual Meeting of the Montana Taxpayers Association**

Each year we continue to hear positive feedback on our annual meeting. This year our line up of speakers for the program received even more accolades than before. We appreciate all of you who were able to attend and hope to see you next year at the **89<sup>th</sup> Annual Meeting on December 9, 2010**. Thanks again to our sponsors who helped make this a great event (listed on the back of the insert of this newsletter).

## **Board of Directors - 2010**

We are pleased to announce the following members who will serve as the board of directors of the Montana Taxpayers Association for 2009 – 2010.

**Chair** - Director at Large – Rick Hays, Helena

**Vice Chair** - Utilities – Tom Ebzery, Billings

Automobiles – Tom Rolfe, Helena

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Farm & Ranch – Nancy Schlepp, Bozeman

Gas & Electric – John Fitzpatrick, Helena

Healthcare – Mike Foster, Billings

Ind. Power Producers - David Hoffman, Helena

Insurance – Frank Cote, Helena

Legal Profession – Louise Galt, Martinsdale

Manufacturing – Susan Knedler, Lewistown  
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Railroads – Troy Taylor, Texas  
Recreation Industry – George Willett, Neihart  
Retail – Bill Simkins, Bozeman  
Sheep & Wool – Chase Hibbard, Helena  
Technology – Ernie Kindt, Butte  
Telecommunications – David Gibson, Helena  
Wood Products – Kent Jones, Columbia Falls

## **Questions on Montana's 2009 Reappraisal of Agriculture Property**

*Nancy Schlepp, Montana Farm Bureau Federation*

*Mary Whittinghill, Montana Taxpayers Association*

Changes in procedures used for the 2009 Reappraisal of Class 3, Agriculture Lands, have left many producers puzzled and questioning what will be the final resolution of their appeal or other changes that may be coming from the Department of Revenue. While some producers have seen reductions in their property taxes, others have seen dramatic increases. Figuring out how to interpret the changes in your valuation, taxes and what to do with these changes has become a very complex issue. Do not assume that because your taxes went down, that you should not carefully review changes to your assessment.

What should I do? Who should I talk to? What are the appropriate steps to make sure that my taxes are not increased dramatically in perpetuity? What if I did not file an appeal or protest my taxes and the department makes a change that will affect all producers? These are all questions that we have been receiving on a regular basis. Unfortunately, there are complicating factors to address when looking at this. This document will attempt to guide you through the maze that has been created.

Some producers automatically paid their taxes, and others paid in protest, but all will want to be aware of how these changes affect them and what you can do about it. The first thing that must be explained is there are three distinct issues that ultimately affect your property taxes: **Valuation, Mitigation and the mill levies set by each district**. Even though they do overlap,

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## OFFICERS AND STAFF

RICK HAYS, Helena....Chairman, Board of Directors

MARY WHITTINGHILL, Helena....President

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they must be considered and evaluated separately to understand how to resolve your tax assessment correctly.

### Valuation

In the "2009 Agricultural Land Reappraisal Report" adopted by the Governor's 2006-2008 Agricultural Land Valuation Advisory Committee, the committee recommended to keep the current classification system in place for the 2009 Reappraisal, but to update grades and other production information to determine a new productivity value for each class. 2009 was the first year since the department was placed in charge of valuation in July of 1973 that a statewide ownership information database (cadastral information) was used in conjunction with statewide geographic information (GIS) to capture and utilize what was expected to be more scientific measures for the valuation of agricultural land. The system uses base soil surveys set by the Natural Resources Conservation Services (NRCS), overlaid with rainfall information from National Agriculture Statistics Services (NASS) to come up with a scientific value for your land's production capabilities. This system was to accomplish three things:

1. Create a scientifically defensible system for the appraisal process;
2. Use GPS mapping to redefine field boundaries;
3. Reclassify any lands that had been misclassified in the last appraisal cycle- i.e.- forest land as grazing land, or irrigated cropland as dry-land cropland.

All producers received maps over the last year showing changes in classifications and boundaries. The Department of Revenue (DOR) requested producers to

go over their maps in detail and meet with their local appraisers to provide any additional information or corrections to ensure a higher level of accuracy. Many producers did this for boundary and use purposes. Misunderstandings occurred about how the soil information could affect production values. Changes in these characteristics would have been reflected in the values listed on the 2009 Assessment Notices you received this fall.

Obviously, some of the changes in value are due solely to the reclassification of your land. If you split out 40 acres of grazing to tillable non-irrigated land, you would expect a higher value. HOWEVER, there are some circumstances where the department received additional information after the assessments were mailed (salinity updates on the Soil Conservation Surveys) that should be applied to all taxpayers.

### Mitigation - The Six Year Phase-In and Rate Reduction

The 2009 Legislature wanted to ensure the total statewide increase in market (or productive) value was revenue neutral by class of property. Each class' fully phased in value resulting from the 2009 reappraisal less the total value from the 2003 reappraisal was made revenue neutral by reducing the tax rate each year (for residential and commercial property, the legislature also included an increased exemption on the market value - homestead and comstead exemption) and phasing in the change in value over six years. As with any reappraisal, certain parts of the state increase or decrease by different percentages, so your final value could be more or less than the state average.

If the valuations across the state were equal, a taxpayer should be able to take the difference between the value of each parcel from the previous cycle (as shown on your assessment notice as *Market/Productivity Value as of 1/1/2002*) and the new 2009 reappraisal value (the fully phased in value in 2014 as shown on your assessment notice as the *7/1/2008 value*) to determine the effect of the overall change over the six year cycle.

Unfortunately, the assessment notices for ag producers can be very confusing and are often set aside awaiting the tax notice. In most reappraisal cycles, changes adopted by the legislature would have minimized large impacts on the ultimate tax liability. However, this cycle, some of the assumptions used by the department resulted in large tax increases for many producers.

If the only thing that changed on your land was the productivity value from last year to this year, there should not have been a large increase in you ag value. *This is one of the areas we believe the department made a critical error in application of the legislative intent of HB658 - the Reappraisal Bill.*

### Let's Look at an Example

**Table 1** (insert) is an example of one parcel from an assessment notice (there will usually be more than one

parcel per assessment notice for ag land). There are 8 columns:

1. Legal Description – the geocode associated with that parcel.
2. Property Classification – What class of property is the ag property (Non-irrigated continuously cropped farm land, non-irrigated summer fallow farm land; non-irrigated continuously cropped hay land; tillable irrigated farm land or grazing land).
3. Taxable Percent – the tax rate for Class 3 ag land for 2009 – **2.93%**.
4. Quantity – amount of land associated with this classification within this geocode – **320 acres**.
5. Market Productivity Value as of 1/2/2002 – this should be the fully phased-in value from the 2003 Reappraisal or the value from 2008) - **\$35,155**.
6. Market/Productivity Value of of 7/1/2008. This will be your fully phased-in value at the end of the reappraisal cycle or what your assessment will be in 2014 given everything remains the same - **\$60,994**.
7. Previous Year Taxable value. The total taxable value associated with the Market/Productivity as of 1/2/2002 (or Column 3 X column 5) – **\$1,058**.
8. This column should represent your taxable value for this tax year assuming the value was phased in over six years and the tax rate was reduced to 2.93 percent from 3.01 percent in 2008. You will not be able to ascertain this number without additional information from the DOR – (for example, the actual market value for 2009)

**Table 2** is an example of the ag calculator from our web page. We developed this to determine what we believe was the legislative intent of the mitigation (you can use this same calculator for your own parcels – see below). We entered the information from the parcel in Table 1. Notice that the ag calculator does not contain a homestead or comstead exemption, only a rate reduction. The box at the bottom of the table shows how the phase-in should have worked for this parcel. You can see the 2008 numbers match the example from our assessment notice. When you use the estimated 466.650 mills (top right hand side of the assessment notice), total taxes should have only risen from \$494 to \$539 in the first year.

#### WHAT HAPPENED?

##### **Let's take a closer look at the example**

The department uses formulas to determine the productivity value per acre. They determine the cost of the commodity, the amount of bushels that acre of ground can produce, income produced per acres and a crop share arrangement to take care of fallow years.

In our example in Table 1, the commodity price for spring wheat for the 2003 reappraisal was \$4.53 per bushel. The production was 10 bushels per acre, for a total value per acre of \$110 (A). In the 2009 reappraisal,

the price of the commodity rose to \$4.58 (the 7 year Olympic average creates the small price differential). The productivity per acre was increased to 15 bushels or \$191 per acre (B).

The Department took the position, that since the productivity of the land changed, they needed to recalculate a prior year value (Value Before Reappraisal or VBR) to keep “apples” with “apples”. They stated this is what they do for all other property during a reappraisal.

To establish a VBR, they used the \$4.53 (1/1/2002) and this year's 15 bushels resulting in a price per acre of \$188 (C). This effectively brings the value from last year to nearly the fully phased in value that will occur in 2014; wipes out any meaningful phase in and provides a pittance of relief to the taxpayer from the reduced tax rates throughout the reappraisal.

Now if you take a look at the last column of the assessment notice in Table 1, you will see the Department arrived at the taxable value of \$1,760 (320 acres x \$188 x 2.93%). So instead of \$539 in estimated taxes for 2009, the taxpayer would have been billed \$821 (\$1,760 X 466.65 mills) nearly double than the prior year. The irony of this procedure adopted by the department, is the taxes are higher in the first year than they will be at the final year of the cycle. As the tax rate for Class 3 property declines, so do the taxes. The 2014 value fully phased in (assuming a constant mill) would be only be \$702.

#### *Mill Levies*

The ag example is only one of the underlying complications on maximum mill levies and budgets for local governments. The Revenue and Transportation Committee should be encouraged to closely study the ultimate effects to Montana's property taxpayers.

#### In Summary – Recommendations

The Montana Farm Bureau and the Montana Taxpayers Association believe the department erred when making this calculation and revised assessments should be sent to all effected taxpayers. We suggest the department work closely with the Revenue and Transportation Interim Committee to ensure this process moves forward in an efficient manner.

- Our associations believe the department should re-issue assessment notices for *all ag land* that the department used the current year's yield to determine the VBR for the 1/1/2002 value.
- These issues must be resolved for Class 3 Taxpayers with in the 2009 appraisal year. The consequence of not addressing these issues in the problem will be an unfair shift in taxes with Class 3 taxpayers paying more than they should in perpetuity.
- If there was a change in the use or in the acreage from the prior year, the department should

determine the new Value Before Reappraisal (VBR) with the new characteristics (i.e. acreage and class) but using yields and costs from the prior cycle. This is consistent with the treatment of other cyclical reappraisal property.

- The department should re-issue assessment notices where the department has discovered additional information that should be applied equally to similar groups of taxpayers.
- All changes that have been brought before the Department of Revenue regarding the 2009 original assessments should be addressed before final assessment notices are mailed.
- Taxpayers should receive an additional 30 days from the receipt of the notice to review the new value with their local office.
- The time for appeal should be changed to reflect the new date(s) of the assessment notices.
- New tax notices should be mailed to the owners receiving revised assessments in the spring of 2010. Since the assessment was based on an erroneous assumption or application of law, taxpayers should be refunded any difference in tax payments.
- Taxpayers who continue to have a difference of opinion on the final value of their land who did not appeal within the 30 day time period should be allowed to file an appeal for the 2010 tax year now.
- The Revenue and Transportation Interim Committee should request the department to report differences in mill levies as a result of the revised assessments and offer solutions to the 2011 Legislature.

- The Department of Revenue should seriously consider appointing both the Forest Land Tax Advisory Committee and the Governor's Ag Land Advisory Committee as suggested in the comments to MAR Notices 42-2-814 and 42-2-815.

We believe these are the appropriate solutions to correct these issues. The department's actions have left a great gap in the increases and do not reflect legislative intent. The DOR has acknowledged that an incorrect formula was used and is prepared to fix this inequity for about 25% of the parcels that had no changes of use or boundary changes. Once again, we believe this solution should be applied to all ag properties to determine the prior year's values.

The Montana Revenue and Transportation Interim Committee (RATIC) has set up sub-committees to work on this issue as well as the significant increases in residential property and the calculation of the capitalization rate used for commercial properties.

**How to Use the ag calculator on our website.**

**NOTE: you will see a series of three messages:**

1. Do you want to open or save this file -- choose "open"
2. A web site wants to open content -- choose "allow"
3. Finally you may see a message that asks what you want to do -- choose "read only"

There are three yellow cells in the spreadsheet. These are the only numbers you need to enter.

**2009 Assessment Notice:**

- Total Market/Productivity Value as of 1/1/2002
- Total Market/Productivity Value as of 7/1/2008
- The 2008 Mill Levy (top right side on assessment notice),

You can print the spreadsheet after you enter your numbers. You will need to enter the numbers for each parcel from the assessment notice to see the actual effect (Note: land values that decreased in value, are immediately phased in at the lower value).

**Next Steps**

The Revenue and Transportation Interim Committee will be meeting February 18 and 19 in Helena. Our associations are committed to providing you up-to-date information as we receive it.

**Table 1 - Summer Fallow**  
2009 Assessment Notice - 2008 Mill Levy 466.65

Description Section, Township, Range	Property Classification	Taxable Percent	Quantity	Market/ Productivity Value		Previous Year	Current Year
				As of 1/1/2002	As of 7/1/2008	Taxable Value	Taxable Value
	Tillable Non-Irrigated Land/summer/Fallow	2.930%	320	\$35,155	\$60,994	\$1,058	\$1,760

**Example A - Summer Fallow**

1/1/2002 - 10 bushels  
\$4.53 = \$110.00

DOR Calculated VBR & Phase In 2009

B - C  
\$191 - \$188 = \$3 per acre phase in over 6 years

**Example B**

7/1/2008 - 15 bushels  
\$4.58 = 191.00

Our Proposed Calculated VBR & Phase in 2009

B - A  
\$191 - \$110 = \$162 per acre phase in over 6 years

**Example C**

\$4.53 @ 15 bushels  
\$188.00

**Table 2**

**Example of the Reappraisal Mitigation Passed by the 2009 Legislature**

The 2009 Legislature *reduced tax rates* to mitigate the effects of increases in values due to the new reappraisal.

You can enter information from your **assessment notice** in the **yellow** cells below to determine the change in value of your property from the last reappraisal and how that value will phase in during the next six years. The numbers in **teal** are calculated for you.

**Agricultural Land**

ONLY ENTER THE 3 NUMBERS IN YELLOW

Enter the Market/Productivity Value as of 7/1/2008

\$60,944

This will be the market value of your property when it is fully phased-in in 2014

Enter the Previous Year Taxable value

\$1,058

This was your Market Value in 2008

\$35,150 \*

Difference to be phased in over six years

\$25,794 \*\*

Enter the Mill Levy listed at the top right hand column

Enter the number exactly as printed - eg. 758.940

466.650

(This is the mill levy your taxes were based on in 2008)

This is your estimated taxes for the Previous Tax Year

\$494

Column g estimates taxes for the 6 year phase in using current mills.

\$539

**Estimated 1st year Increase**

\$46

a	b	c	d	e	f	g
Year	Phase in Percent	Phase in Amount	Phased In Market Value	Tax Rate Class 3	Taxable Value	Estimated Taxes
	6 - Year	(** x b)	(c + *)	statutory	(d * e)	(Mill x h)
2008	100.00%		\$35,150	3.01%	\$1,058	\$494
2009	16.66%	\$4,297	\$39,447	2.93%	\$1,156	\$539
2010	33.32%	\$8,595	\$43,744	2.82%	\$1,234	\$576
2011	49.98%	\$12,892	\$48,042	2.72%	\$1,307	\$610
2012	66.64%	\$17,189	\$52,339	2.63%	\$1,377	\$642
2013	83.30%	\$21,487	\$56,636	2.54%	\$1,439	\$671
2014	100.00%	\$25,794	\$60,944	2.47%	\$1,505	\$702

**NOTE: if the value of your land in 2009 is less than the value in 2008, it will be immediately phased down**

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