

MONTANA TAXPAYER



MONTANA TAXPAYERS ASSOCIATION

HELENA, MONTANA

Volume 41

Number 1

January 2007

Upcoming Montax Publications

In the next few weeks, we will be releasing two of our publications; *Montana Taxation 2006* and the *2007 Tax Digest*. *Montana Taxation* contains historical expenditure and revenue information as well as detailed information on mill levies and school expenditure and student populations. The *Tax Digest*, one of our most popular publications, contains a list of all taxes, incentives, exemptions, deductions and some of the major fees and licenses. Each section has the corresponding Chapter and Section for both the citation to Montana code as well as the administrative rules. These are available for \$15 for members and \$20 for non-members. Please email Pam at phyatt@montax.org to secure your publication.

How Montana Compares, January 2007 is now available on our [website](#).

Legislative Recap - January

Many of the links for session information can be found on our home page www.montax.org. Here you can also find links for audio, television and streaming audio for live coverage of committee hearings and floor sessions.

Stats as of January 26*:	House	Senate	Total
Total introduced	487	374	861
Active in House	387	65	452
Active in Senate	51	286	337
Tabled in House	48	0	48
Tabled in Senate	0	22	22

*Resolutions not included

Remaining Legislative Calendar

Sat., Feb. 17 - Last day for committee to request general bills
 Wed., Feb. 28 - Transmittal of general bills to other chamber
 Wed., Feb. 28 - Transmittal Break – upon adjournment
 Thurs., March 1 - Transmittal Break
 Fri., March 2 -Transmittal Break
 Sat., March 3 -Transmittal Break
 Sun., March 4 -Transmittal Break
 Wed., March 21 - Transmittal of revenue estimated joint resolutions
 Fri., March 23 - Last day for committee to request revenue bills
 Thurs., March 29 -Transmittal of appropriation bills
 Tues., April 3 -Transmittal of revenue bills
 Thurs., April 5 - Transmittal of amendments to general bills

Tues., Apr. 10 - Last day to request study resolution or committee bills to implement HB2
 Mon., Apr. 16 - Transmittal of amendments to appropriation bills
 Wed., Apr. 18 -Transmittal of amendments to revenue bills and revenue est. joint resolutions
 Sat., Apr. 21 - Transmittal of interim study resolutions
 Fri., Apr. 27 -Sine Die

Montana Taxpayers Association - 2007 Legislative Issues/Positions

The association follows the general principles of a quality revenue system when analyzing bills to determine its position.

Tax bills

Tax legislation will be analyzed consistent with prior positions and its implication to our members. In particular, Montax will support broad based, fair, equitable bills and it will oppose burdens on Montana taxpayers beyond that in federal law and beyond those imposed in any other states.

- Local option/resort taxes: Generally oppose since such taxes do not provide broad based tax reform and usually benefit only certain areas of Montana.
- Tax increment finance district changes: Position will be taken after consultation with board of directors.
- Disproportionate taxes such as selective sales/gross receipts taxes: Generally oppose.
- Split tax roll: Oppose any legislation that will split commercial and residential property for property tax purposes.
- General statewide sales taxes: Support overall tax reform that is generally revenue neutral for Montana taxpayers and is accompanied with reductions in other taxes with assurance those tax reductions won't increase to the original level.
- Corporation Taxes: Oppose repeal of any of the confidentiality provisions of corporate tax records.
- Tax credits and incentives: Depends how broad based they are and their effect on existing businesses and individuals in Montana.

Montana Taxpayer

Address all communications to:
MONTANA TAXPAYERS ASSOCIATION

P.O. BOX 4909, HELENA, MT 59604

Telephone (406) 442-2130

FAX (406) 442-1230

Web Site – www.montax.org

E-mail – mwhitt@montax.org

phyatt@montax.org

Business Office: 506 North Lamborn



OFFICERS AND STAFF

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

MARY WHITTINGHILL, Helena....President

PAM HYATT, Helena....Office Manager



DIRECTORS

Automobiles – Tom Rolfe, Helena
Cable – Mark Baker, Helena
CPA's – Dwaine Iverson - Shelby
Cooperatives – Doug Hardy, Livingston
Director at Large – Rick Hays, Helena
Director at Large – Walter McNutt, Sidney
Director at Large – Barbara Ranf, Helena
Farm Machinery – Gordon Nelsen, Conrad
Farm & Ranch – Nancy Schlepp, Bozeman
Gas & Electric – John Fitzpatrick, Helena
Healthcare – Mike Foster, Billings

Ind. Power Producers - David Hoffman, Helena
Legal Profession – Louise Galt, Martinsdale
Manufacturing – Susan Knedler, Lewistown
Natural Resource/Energy – Russ Ritter, Helena
Railroads – Alec Vincent, Texas
Recreation Industry – George Willett, Neihart
Retail – Bill Simkins, Bozeman
Sheep & Wool – Chase Hibbard, Helena
Technology – Dave Seburn, Butte
Utilities – Tom Ebzery, Billings
Wood Products – Henry Ricklefs, Whitefish

Fees

Generally Montax will not testify on specific fees except in those situations where a fee is more like a tax and does not return a benefit to the payee but is of a more general nature.

Permissive Mill Levies

Generally oppose.

Member-specific legislation

Montax will generally not support or oppose legislation when our members have opposing positions. If requested to oppose or support legislation with potential opposing positions, Montax will verify the position with the executive board and when necessary, the entire board.

General Fund

The Governor's Office has proposed spending over \$1 billion from the general fund. As Montax receives additional information on the budget specifics such as on-going, one-time-only and new proposals, the association could take a position on specific areas.

School Funding

The legislature, in cooperation with the administration should be the driver in school funding and address the issue methodically, while utilizing input from the education community, citizens, businesses, taxpayers and outside experts. If it is determined more school funding is appropriate, the focus should be on a broad funding source rather than selective or narrow solutions. Montax will continue to analyze proposed expenditures

and funding formulas, with emphasis on equalization proposals.

Taxation Committees

Early in the Session, the House and Senate Tax committees were given informational sessions by both the Department of Revenue and the Legislative Fiscal Division on Montana's tax system. The Department of Revenue's Biennial Report contains listings of Montana taxes and fees under the responsibility of the department as well as historical collections. The report is available on their [website](#).

The Department of Revenue had various handouts we have available on our website. Some of the graphs attempted to show how tax reforms over the past decade have benefited larger businesses and other businesses at the expense of Montana homeowners. We do not agree with the conclusions of the department and have included an article by Professor Doug Young, Montana State University to confirm our position.

Montana Property Taxes: 1996 – 2006

Douglas J. Young, Professor of Economics, Montana State University
Bozeman, MT 59717, January 10, 2007, djyoung@montana.edu

A review of Montana property taxes during the last 10 years reveals the following key points.

Total Taxes Levied:

Total property taxes increased 47% from \$775 million to \$1,137 million. Almost all of the increase resulted from changes in mill levies. The state-wide average mill rate rose from 415 mills to 583 mills. The taxable value of all property in the state increased only 4%, from \$1,867 million to \$1,951 million.

The biggest increases in absolute terms were for education (\$153 million), but tax increases were also substantial for counties (\$111 million), cities and towns (\$44 million) and special improvement districts (\$76 million).

Personal income in Montana rose faster than property taxes (from 16,880 million to \$28,777 million), so property taxes declined from 4.6% of income to 4%. (Note: 2006 personal income estimate based on growth in first 3 quarters.)

Changes in the Property Tax Base (see graphs on next page):

Residential and commercial property's share of the tax base (taxable value) increased from 47% in 1996 to 61% in 2005. Residential and commercial property's share of all property taxes in 2005 was slightly higher (65%), because residential and commercial property is more likely to be located in cities and towns where mill levies are higher.

The shift in the property tax burden toward residential and commercial property resulted mainly from new

construction and increases in property values. Changes in the property tax laws eased the burden slightly. While property taxes were reduced on business equipment, electrical generation and telecommunications property, and livestock were exempted from tax, a number of provisions benefited owners of residential and commercial property. A “homestead” exemption now excludes 32 percent of the value of residential property, and a similar “comstead” exemption excludes 14 percent of commercial property. The 1996 reappraisal was gradually phased in over six years, and the 2002 reappraisal will not be fully phased in until 2008. If 1996 laws had remained in effect, Class 4's share of the tax base would have increased even more - to 64%. In addition, current taxable values do not reflect any of the appreciation in property prices that has occurred since 2002.

Note: The law changes incorporated into this analysis include phase-in of reappraisals, homestead & comstead exemptions, changes in taxable value rates for ag and forest land, residential and commercial, business equipment, and electrical generation/telecomm, and exclusion of livestock. Not included: Exempting business equipment if value less than \$20,000 per location, and increases in market values since the 2002 reappraisal.

Department of Revenue’s Interpretation of the “Tax Benefit Rule”

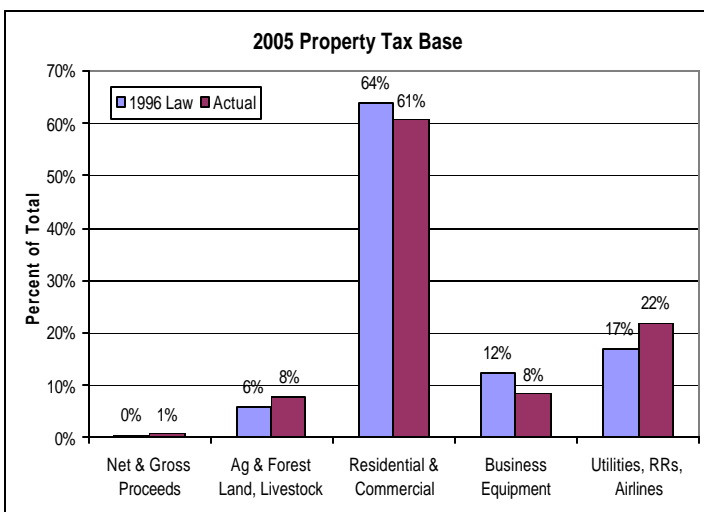
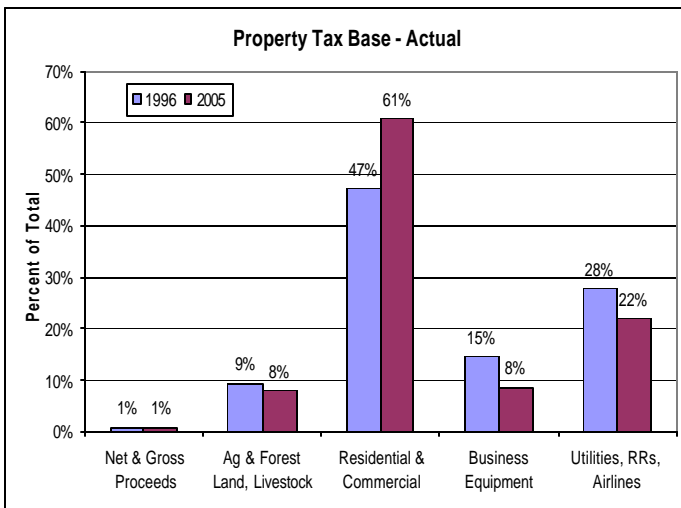
(Society Press Release: January 25, 2006)

The Montana Society of Certified Public Accountants (MSCPA) has identified a situation could cause and incorrect amount of Montana taxpayer’s federal refunds from tax year 2005 to be taxed on their 2006 state tax returns based on the Department of Revenue’s interpretation of the current Montana State tax code. “The short explanation of this is: this is double taxation,” explained MSCPA President Dan Vuckovich. Senate Bill 407 passed in the 2003 legislative session limited the deduction for federal income taxes paid to \$5,000 for each taxpayer. When the average Montana overpays their federal tax, the refund they are issued may be taxable by Montana even though that person did not get a tax benefit. The controversy that has arisen with the Department of Revenue concerns their interpretation of the tax benefit rule. MSCPA has been working with and encouraging the Department of Revenue to review this situation.

The Department of Revenue’s interpretation of statute is causing confusion for tax preparers in Montana. The Department of Revenue has issued tax forms for 2006 that the MSCPA feels has misinterpreted the law and the tax benefit rules and could lead to the incorrect preparation of 2006 individual tax returns. “This is a problem that could affect tens of thousands of taxpayers and tax preparers across the state,” stated Vuckovich. “We are very concerned that tax preparers complete returns that are totally in compliance with both federal and state rules and regulations.”

The Department of Revenue has indicated that we may need a law change in order to remedy this interpretation. Time is of the essence and with the 2007 Legislation nearly in completion of its first month and the 2006 tax season already in progress, the MSCPA feels it is imperative to move quickly. “We are receiving calls everyday from CPAs asking how to handle this situation,” reported MSCPA director Jane Egan. “They want to do the right thing in preparation of their client’s returns, but tell us they cannot in good conscience follow the Department’s Worksheet II. The MSCPA is eager to work with the Department of Revenue and we hope that this administration and legislature can work together to effect quick passage of a bill that would ensure that individual tax returns can be correctly and fairly filed this tax season.”

In a legal opinion requested by the MSCPA, Mike Green, Crowley, Haughey, Hanson, Toole & Dietrich concluded the Department’s current interpretation of § 15-30-111(1)(d), MCA, creates such a baseless distinction among those taxpayers who pay more in federal tax than the amount they are allowed to claim as a deduction under § 15-30-121(1)(b), MCA. Under the calculation embodied in Worksheet II, such a taxpayer



who receives a refund of federal tax will be denied the full benefit of the allowable deduction, while a taxpayer who does not receive a refund gets the full benefit, even if those taxpayers end up owing exactly the same amount of tax for a given year. Consider the following simplified examples.

Taxpayers A and B are both Montana taxpayers filing singly, who have total itemized deductions well in excess of the standard deduction¹ and who owed federal income tax of \$10,000 for 2005. Taxpayer A is a small business owner who paid \$10,000 in estimated federal tax payments in 2005, so will not receive a refund. Taxpayer B is a Montana taxpayer whose employer withheld \$15,000 from his paychecks in 2005, so receives a federal refund to \$5,000 when he files his return in 2006. Under the tax benefit rule, neither taxpayer should owe Montana any additional tax in 2006 as a result of the \$5,000 deduction for federal income tax paid they claimed in 2005. Taxpayer A did not receive a refund so there is nothing to tax. Taxpayer B received a refund, but his refund did not affect the tax benefit he received from the 2005 deduction, because his “proper” amount of federal tax still exceeded the deduction he claimed on his Montana return. Thus, these two taxpayers, who received identical tax benefits in 2005 and who ultimately paid exactly the same amount of federal income tax, should be treated the same under Montana law, regardless of the refund.

The problem with the Department’s Worksheet II is that it treats Taxpayers A and B very differently. Of course, Taxpayer A would owe no additional tax because he received no refund to tax. However, under the worksheet calculation, Taxpayer B would owe \$345 in

Montana tax on his refund. Thus, despite the fact that each of these taxpayers owed identical federal tax for 2005 and received exactly the same tax benefit from the deduction taken on their 2005 Montana returns, Taxpayer B would be denied the benefit of a statutory deduction in Montana, simply because he had too much withheld. This is not the result intended by the Legislature.

The Department of Revenue has indicated that we may need a law change in order to remedy this interpretation. Time is of the essence and with the 2007 Legislation nearly in completion of its first month and the 2006 tax season already in progress, the MSCPA feels it is imperative to move quickly. “We are receiving calls everyday from CPAs asking how to handle this situation,” reported MSCPA director Jane Egan. “They want to do the right thing in preparation of their client’s returns, but tell us they cannot in good conscience follow the Department’s Worksheet II. The MSCPA is eager to work with the Department of Revenue and we hope that this administration and legislature can work together to effect quick passage of a bill that would ensure that individual tax returns can be correctly and fairly filed this tax season.”

¹Meaning the standard deduction limitation of the tax benefit is not an issue for sake of simplifying the example.

Coming Next Month

We’ll be covering in more detail “Who pays Montana Income Taxes.”

Check out [guest commentaries](#) that are aired on NPR by members of the business community on our website.