

MONTANA TAXPAYER



MONTANA TAXPAYERS ASSOCIATION

HELENA, MONTANA

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July 2006

85th Annual Meeting of the Montana Taxpayers Association – Tuesday, December 5, Helena

Upcoming Meetings

July 17 – [MAR Notice 42-2-761](#)

July 17 and 18 – [EQC](#)

August 14 – [Rail Service Competition Counsel, Shelby](#)

August 17 – [Education & Local Govt.](#)

August 18 – [Education & Local Govt.](#)

August 31 – [Law and Justice](#)

September 7 – [Energy and Telecommunications](#)

September 8 – [Revenue and Transportation](#)

September 11 and 12 – [Economic Affairs](#)

September 11 and 12 – [EQC](#)

September 11 – [State Administration & Veterans Affairs](#)

September 14 and 15 – [Children, Families, Health, & Human Services](#)

September 15 – Last day for interim committee review of agency legislation

September 15 – [Legislative Council](#)

October 12 and 13 – [Legislative Finance](#)

October 31 – Last day to submit agency bill drafts to LSD

November 7 – General Election

November 14 – [Revenue and Transportation](#)

November 27 – Senate and House Caucuses (noon)

November 28 – New Legislator Orientation

November 29 – New Legislator Orientation

December 5 – 85th Meeting of the Montana Taxpayers Association

December 11 – Committee Chair Training

December 26 – last day for pre-introduction of agency bills

January 3 – Start of Session

Details on meetings are available on our calendar [website](#): or at www.montax.org

Procedure for Review, Request and Drafting of Agency Legislation

(From the Legislative Services Division)

As part of the Executive Planning Process (EPP), agencies were required to submit a description of proposed legislation to the Office of Budget and Program Planning (OBPP) by April 14. OBPP and the Governor's Office reviewed the agencies' description of proposed legislation from mid-April until late May. Legislation approved by the Governor's Office was sent to the Legislative Services Division (LSD) for

distribution to the appropriate interim committees. The interim committees will review the proposals and decide whether the committee will request the legislation for bill drafting. Committee reviews must be completed by September 15.

- If an interim committee agrees to request the legislation, the committee will submit a bill draft request to the LSD for processing.
- If an interim committee does not agree to request the legislation, the agency may still proceed by finding a holdover or unopposed legislator to request the legislation.
- An interim committee's action on an agency proposal is not necessarily a position or comment on the merits of the proposal.
- An interim committee is encouraged to consolidate related bill draft requests.

All agency bill drafts requested by an interim committee must be submitted to the LSD for processing by October 31 and preintroduced by December 26. A preintroduced bill will be assigned a bill number; contain a line under the sponsor's name indicating that the bill is "by request of the agency;" and be printed before the Legislature convenes on January 3, 2007.

Revenue and Transportation Interim Committee – June 29th and 30th 2009 Reappraisal

Staff from the Department of Revenue presented an update on the progress of the 2009 reappraisal of Class 3 (agricultural), Class 4 (residential, commercial and industrial real property) and Class 11 (forest land). The other 9 classes of property are valued annually. The state is responsible for the valuation and taxation of all property in the state (the local county offices are operated by the state). The local treasurers' offices are responsible for the billing, collection and reconciliation of the property.

The department utilizes mass appraisal – the process of valuing large numbers of properties as of a given date or

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point in time, using standard methods (cost, income and market) and statistical testing and analysis. This is contrast to single property or fee appraisals where one property is appraised at a time. Although, in a mass appraisal, the appraiser still must review and verify the computer generated market value of each parcel and check comparable properties before a final value is placed on the property. Real property parcels in Montana have grown from a little over 700,000 in 1994 to an anticipated 1,000,000 by 2009. Meanwhile, FTE in the department’s Property Assessment Division have decreased from 360 in 1994 to 300 in 2007. The department will be requesting additional FTE in their funding request to the Governor for the 2009 biennium.

The new values will not go on the tax rolls until 2009. Although the market values for Class 4 property increase significantly with each reappraisal, past legislatures have implemented measures that keep the statewide increase revenue neutral. Properties that increase in value higher than the statewide average see some tax increase, properties whose increase is less than the average decrease and properties at the average increase experience no tax increase (this assumes no voted mill levy increases or increases in permissive mill levies). Some of the mitigation measures that have been used include reducing the tax classification rate, phasing in the values, increasing homestead and comstead exemptions, providing additional low income assistance and extending additional tax relief for those properties whose values increased above a certain threshold.

A separate Agricultural Land Valuation Advisory Committee continues to work on the reappraisal for Class 3 property. While Class 4 or real property is based on market value, agricultural property is based on productivity value. Currently agricultural land is classified according to use: continuously cropped farmland, summer fallow, continuously cropped hayland, irrigated land, and grazing land. Within each use class, there are grades that represent the range of production of each acre. The department determines the production utilizing “base” crops. For example, production grades for continuously cropped and summer fallow are based on wheat yields. Irrigated and continuously cropped hayland production is based on alfalfa yields and grazing land on the carrying capacity or how many animals could be raised on that acre (without outside feed).

The 2009 reappraisal will be the first time in 40 years that all ag land statewide will be reviewed and potentially reclassified. The department is attempting to obtain digitized (electronic mapping) land use information from the national Farm Service Agency (FSA) to assist in identifying the use class. Since the FSA has concerns on releasing information received from individual land owners, it was necessary for the department to request the information through the Freedom of Information Act. The Ag Advisory Committee suggested the DOR proceed on their attempts to obtain the information including contacting the Montana Congressional delegation. Members RATIC concurred.

To determine the productivity of the land, the department will be utilizing detailed information from soil surveys from the Natural Resource Conservation Service (NRCS). The department believes that utilizing the surveys will produce more uniform and equitable assessments since they will be based on soil properties and climate vs. how the property is managed by individual owners.

The Ag Advisory committee also recommended the number of use classes be reduced from five to two: farmland and grazing land. Productivity grades would be continued within each class. The department is continuing to evaluate the shifts that could occur by collapsing the number of classes for the 2009 Reappraisal. They will begin an educational program in the spring of 2008 for agricultural land owners.

Updated productivity values for forest land are also proceeding. The department will be using updated data on soils, precipitation and climate. They hope to improve the forest/nonforest delineations for determining forestland tax eligibility (a taxpayer must have a minimum of 15 acres of commercial grade timber

to qualify). The department will be contracting with the University of Montana's College of Forestry and Conservation to determine the productivity.

HJR44 – Study taxation of oil and gas production equipment and transmission pipelines

The committee reviewed a report by Jeff Martin, Legislative Research Analyst on the property tax implications of locally assessing certain natural gas property. Currently the department is centrally assessing three gas producers at 12 percent, while all others are assessed at 3 percent of market value. The decision by the department to centrally assess these properties is under appeal. Other oil and gas producers have recently been contacted by the department for potential reclassification. Since the department and the producers are still discussing alternatives, there will not be a committee bill.

Update of Revenue Activities

Integrated Computer System - IRIS

Dan Bucks, Director of the Department of Revenue, said they are on target to complete the new integrated computer system. Phase 1 (rental vehicles, lodging, cigarette, withholding and COGS (Combined Oil and Gas System)) were completed in August of 2004. At the end of last year, corporate, individual income, and the liquor distribution systems were completed. On June 11, they rolled out eight additional miscellaneous taxes. Twenty-five more miscellaneous taxes and liquor licenses are scheduled to be online by early October of this year. All remaining taxes will be complete by the beginning of December. The department has demonstrated an outstanding effort on this project, both in timeliness and quality.

Federal Legislation

The director expressed his displeasure with three bills under consideration by Congress. The bills attempt to clarify taxation of multistate activities among the various states. The director believes this is a blatant attempt by Congress to pre-empt states' taxing authority. While we respect Montana's authority to define its own tax system, we also believe it is important to maintain consistent application of guiding tax principles between states. Consistent broad policy improves compliance and should help with enforcement. We will be providing more information on these pieces of legislation as they move forward in Congress.

Audit Activities

The director reviewed his response to recommendations from the Legislative Auditor's Office on a report they issued on performance audits – improving taxpayer compliance in Montana. Two of the recommendations are listed below:

- Recommendation: Complete strategic planning for its audit activities to focus efforts on reducing taxpayer noncompliance.

Concur: The department will complete a strategic planning process by the end of calendar year 2006 and will update it on a biennial basis. This strategic plan will have as an overarching goal measuring and reducing the Montana tax compliance gap. Within the context of that overall goal, the plan will implement these five priorities:

- Prevention: Audit and other compliance coverage needs to be sufficient for each tax type and for major taxpayer groups.
- Taxpayer Education and Convenience: Complying with state taxes should be as convenient and understandable as possible.
- Fairness: Differences in filing and reporting rates among taxpayer groups need to be minimized to maintain public trust in the fairness of the tax system.
- Productivity: Except as necessary to achieve the four other compliance priorities, compliance efforts should yield the highest return on investments measured over reasonable periods of time.
- Emerging Issues: Compliance efforts should be flexible and dynamic enough to discover, investigate and respond to changing patterns of noncompliance.

If the state is to reduce the tax gap, the department needs significant additional resources and improved laws. The department has requested what it believes are necessary statutory changes as part of the Executive Planning Process. The department has also requested a significant increase in audit resources (see [New Proposals](#) of the Department on our website). The 2007 Legislature has important choices to make about the level of noncompliance that will be tolerated in Montana's tax system. Once the legislature makes those choices the department has the ongoing responsibility to adjust its strategic plan to most effectively make use of the laws and resources available.

- Recommendation: Conduct tax gap analyses that specifically measure compliance with Montana's tax laws at intervals that, at a minimum, correspond with strategic planning cycles in order to recognize a need to make corrections to compliance activities.

Concur: A tax gap study is crucial for a tax agency to truly determine areas of noncompliance and to effectively identify methods to address those areas. The department will be asking the 2007 Legislature to fund a

Montana specific tax gap study. In the past, the department has conducted tax gap studies based solely on the Internal Revenue Service's (IRS) tax gap studies. While the IRS's tax gap studies are useful in developing a Montana study and provide general guidance to problem areas with income taxes, the tax gap analysis falls far short in identifying areas of concern with Montana's tax law. Current tax gap studies do not adequately address compliance issues with respect to non-residents or out-of-state companies and other tax types, such as combined oil and gas production tax. The department looks forward to working with the 2007 Legislature in fully funding a tax gap study to address this recommendation. (June 12, 2006 letter from Dan Bucks to Scott Seacat, Legislative Auditor).

The Montana Taxpayers Association is committed to working with the department and the next legislature on these very important tax compliance issues. The department's list of priorities to address these issues appears as a reasonable approach in achieving their goals.

The director explained why audit collections to date are behind the estimates contained in the revenue estimates for the 2007 Biennium. The director stated that in the past, collections for reminder letters (letters sent to taxpayers who file early, but do not pay until April 15) were included in the audit figures. This resulted in inflated numbers for audit activity. The director has instructed staff to remove these revenues for future estimates. He also stated that the department is exceeding their revenue targets with the new compliance staff hired after the 2005 Session (after adjustment).

Consideration of Structure of Interim Committees

The committee discussed the idea of the Education and Local Government Committee to consider legislation that would have made Education and Revenue stand alone interim committees and combine Local

Government with Transportation. Committee members rejected the idea.

2009 Interim Study on Title 16, MCA – relating to beverage and tobacco laws

The committee was asked to consider a resolution for the 2007 Session to conduct an interim study of Title 16, MCA relating to alcoholic beverage laws and tobacco laws. The committee delayed action on a final decision until the next meeting to allow for more public input on the value of a study.

Public Comment – request for review of taxation of mini-cigars

Drs. Shepard and Sargent requested the committee consider clarification of the taxation of mini-cigars. They stated that the mini-cigars are clearly designed to induce smoking by adding flavorings and they are cheaper than cigarette products since they are not subject to the additional taxes. For example, mini-cigars that are sold in cartons would be subject to \$17 in additional taxes if treated similar to cigarettes. The department indicated that seven other states have already passed legislation. There was a motion to encourage the department to pursue rule making to clarify the taxation of mini-cigars. The motion failed as some of the committee members thought there should be opportunity for more public comment.

Next Meeting – September 8

The members will review a bill on access to tax records by the Legislative Auditor's and Fiscal Division; consideration of adoption of proposed bills by the Departments of Revenue and Transportation; review of a draft final report on HJR44 – Study taxation of oil and gas production equipment and transmission pipelines; discussion and public input on taxation of mini-cigars; discussion and public comment on a review of Title 16; and an update on revenue collections of the general fund.