

Director Dan Bucks
Department of Revenue
State Capitol
Helena, MT 59620

May 17, 2007

Dear Director Bucks:

I share your concern that there are a handful of bad apples present in Montana and elsewhere that owe taxes to Montana, but have shirked their responsibility to pay. I have to say that I was shocked by the statement you made in a letter to Representative Cohenour during the May special session. The letter indicates the result of an inquiry you made regarding the organizations who opposed HB 5 and you question whether any of the members of those organizations had engaged in illegal tax shelters. The implication is, of course, that these organizations really serve no other purpose than to protect tax cheaters.

According to your letter, “a significant share – approximately half – of the out-of-state companies known to belong to these four organizations engaged in reportable or listed transactions subject to the federal abusive tax shelter legislation...In contrast, there is little evidence that in-state Montana companies – whether they belong to these business organizations or not – have engaged in any of these tax shelters.”

This information would have been very helpful during the regular legislative session, and it’s unfortunate that you only discovered it during the fast-paced special session. I have to applaud the fact that you had the time and energy to produce such a study when your Department was undoubtedly swamped with the extra workload that comes with a special session.

Based on this new information, I would appreciate a copy of all material that you used in answering Representative Cohenour’s letter. Specifically, I’d like to know the identities of the four organizations you included in your inquiry, and the “known members” that you used. I’d also like a complete listing of the listed and reportable transactions that you identified for each of these companies by year. As you know, it’s important to distinguish the listed transactions from the reportable transactions, as the former are illegal and the latter are not. Please also include information on where and how you obtained the information on these out-of-state companies using tax shelters. Finally, I’d appreciate a copy of Representative Cohenour’s letter that prompted your response.

Though I am encouraged that we have a Director of Revenue who is committed to aggressively attacking tax shirkers and those who seek to protect them, I cannot share your opinion that any Montana business organization is in the business of protecting “tax cheaters” until I have had an opportunity to

review this material. I hope that you have not reached this conclusion based on an inadequate inquiry or shoddy data, or that this conclusion was reached in haste to serve some other purpose.

It is my opinion that the legislative process, and particularly committee testimony, should be open to all participants, and that we should take that testimony at face value. I do not think it is productive to attempt to discredit those who might disagree with you by implying that their testimony was designed for some ulterior motive. However, I am willing to take a look at the data that you have compiled and I will render my own judgment. If the data suggests anything other than the very serious claim you made in committee, I hope you'll agree that you owe a very big apology to those groups that you vilified in my committee.

As chairman of the House Tax Committee, I believe that I am somewhat familiar with the Montana Tax Code. However, I have yet to discover any part of Title 15, or anywhere in the Montana Constitution that seems to prohibit the Director of Revenue from pursuing people who owe tax on Montana source income but have not paid it. The second part of my request would be to identify those sections of Montana Code that specifically limit the Department of Revenue in the pursuit of tax shirkers.

Further, I was impressed during the legislative session on the amount of detail that you provided to the legislature on specifics of out-of-state tax cheaters. You seem to have a great deal of information about the individuals and businesses that are negligent in paying the taxes they owe. My final question is, Why are you not pursuing these known entities? Your job as Director of Revenue is clearly to collect taxes that are owed. I know you're committed to your work and to expanding the scope of the Department of Revenue, but it seems to me that your first priority should be to collect taxes from those tax shirkers you already know about.

I thank you to your hard work as the Director of Revenue, and I look forward to working with you on these issues in preparation for the next legislative session. I appreciate your prompt reply to my inquiry.

Sincerely,

Representative Bob Lake
Chairman
House Taxation Committee

Cc: Representative Jill Cohenour