

# MONTANA TAXPAYER



MONTANA TAXPAYERS ASSOCIATION

HELENA, MONTANA

Volume 43

Number 6

October 2009

## Upcoming Meetings

Monday, November 9 – [Education and Local Gov't](#)  
(Subcommittee on Legislative Resolutions)  
Monday & Tuesday, November 9 & 10 – [Energy & Telecommunications](#)  
Monday, November 16 – [Children, Families, Health & Human Services](#)  
Tuesday, November 17 – [Economic Affairs](#)  
Wednesday, November 18  
[MAR Notice No. 42-2-810](#); 10:00am; DOR  
[MAR Notice No. 42-2-809](#); 1:00pm; DOR  
[MAR Notice No. 42-2-811](#); 3:00pm; DOR  
Monday, November 23  
[MAR Notice No. 42-2-815](#); 8:30am; DOR  
[MAR Notice No. 42-2-814](#); 9:30am; DOR  
[MAR Notice No. 42-2-817](#); 1:30pm; DOR  
Tuesday, November 24  
[MAR Notice No. 42-2-812](#); 1:00pm; DOR  
[MAR Notice No. 42-2-813](#); 3:00pm; DOR  
[MAR Notice No. 42-2-816](#); 4:00pm; DOR  
Thursday & Friday, Dec. 3 & 4 – [Revenue and Transportation](#)  
Thursday and Friday, Dec. 3 & 4 – [Legislative Finance](#)  
***Thursday, December 3 – 88<sup>th</sup> Annual Meeting of the Montana Taxpayers Association, Helena***  
***Mark your calendars NOW***  
Friday, December 11 – [Education & Local Gov't](#)  
Monday, December 14 – [Legislative Council](#)  
Friday, December 18 – [Law and Justice](#)

Some of these meetings are tentative. Please check our website [calendar](#) or the [Legislative Calendar](#) for updates.

## ***Tax Bills and the Appeal Process***

Tax bills are showing up in mailboxes around the state. You have 30 days from the date of postmark of the tax bill to pay your first half taxes. If the date the taxes are due falls on a holiday or Saturday, taxes may be paid without penalty or interest on or before 5 p.m. of the next business day ([15-6-102 MCA](#)).

Based on statistics compiled by the Department of Revenue over 26,000 AB-26's were filed by taxpayers throughout Montana within the 30 day time frame after receiving an assessment notice. Some of these will be resolved through discussions with the local appraisal office and some will advance to the County Tax Appeal

Board. (We have posted the counts on our website [www.montax.org](#) under the 2009 Reappraisal Link). If you are still in an informal appeal process (have filed an AB-26 with the local office) or in the formal process (have filed an appeal with the County Tax Appeal Board), you must pay a portion of your taxes under protest when the taxes are due. The protest must be in writing and made to the officer designated and authorized to collect it; specify the grounds of the protest; and not exceed the difference between the payment for the immediately preceding tax year and the amount owing in the tax year protested ([15-1-402, MCA](#)). There are situations, such as this year when a reappraisal has been implemented where the difference could be greater. Refer to the statute or contact your local treasurer's office for assistance.

If the protested property tax or fee is on property that is subject to central assessment, the person shall report to the department the grounds of the protest and the amount of the protested payment for each county in which a protested payment was made. By November 1 of each year, the department shall mail a notice stating the requirements of this subsection to owners of property subject to central assessment who have filed a timely appeal.

## **Getting ready for an appeal**

Whether you are still in the informal or AB-26 process with the department or have continued to the County Tax Appeal Board, there are various places to find information to help you understand the appeal process.

The [2009 Reappraisal](#) page on our website has tips and links to help you understand how the reappraisal will affect you and what information is available for you to review. Our website also has information from the prior interim and the [2009 Legislative subcommittee](#) on reappraisal.

We encourage you to work with the [local office](#) in your county. They will be able to provide information on the comparable property they used to value your home or how they determined the value of land. Remember, if you disagree with the final determination of value of the

# 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](http://www.montax.org)

E-mail – [mwhitt@montax.org](mailto:mwhitt@montax.org)

[phyatt@montax.org](mailto: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 – Dwayne 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

Insurance – Frank Cote, Helena  
Legal Profession – Louise Galt, Martinsdale  
Manufacturing – Susan Knedler, Lewistown  
Natural Resource/Energy – Russ Ritter, Helena  
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  
Utilities – Tom Ebzery, Billings  
Wood Products – Kent Jones, Columbia Falls

department, you must file a [Property Tax Appeal Form](#) appeal to the County Tax Appeal Board within 30 days after the notice of the department's determination is mailed to you. The State Tax Appeal Board's site has other guidelines on how to prepare for an appeal.

Department of Revenue's website: [www.mt.gov/revenue](http://www.mt.gov/revenue).

State Tax Appeal Board's website: <http://stab.mt.gov/>.

## Updated Information on Forest Land Reappraisal

We have received several questions regarding the assessments for forest land. Not only did taxpayers find it difficult to understand the values listed on the assessment notice, the market values did not match the tax bill. We have added a [forest land calculator](#), on our website so you can compare your tax bill with the assessment notice. You only need to enter three numbers from your assessment notice.

Although the calculator will help you determine the market and taxable values and estimated taxes during the 6 year phase in, you will need some additional information to calculate the underlying valuation. Each parcel or geocode on your assessment notice can contain multiple acres with different values based on the characteristics of your forest land. The local appraisal office will provide you with this breakdown.

To help you understand the basics of forest land valuation, the zones, valuation formula, and other information used in the formula are available on our website. There are also some useful examples. The forest land information page can be found on our website. Our [home page](#) has the new [Forest land](#) link.

Just recently the department published proposed rule changes for forest land that describes this process in more detail. We have listed a link to the proposed rule at the end of the newsletter – MAR 42-2-814.

## Department of Revenue - 2011 Goals and Objectives

The department recently published their goals and objectives for the [2011 Biennium](#).

We would encourage taxpayers to review the document to increase your understanding of the goals of the department for the 2011 biennium. There are many opportunities for taxpayers to become more involved in providing your ideas on the administration of Montana's revenue system.

Our concerns lay with the department's continued barrage of perceived compliance issues that have emerged since the 2005 Session and each subsequent interim. Interested parties have worked diligently and in good faith in an attempt to understand the exact issue and underlying information provided by the department. Each session these same taxpayers have tried to address the department's concerns through new legislation while trying to keep Montana's tax simple and easy to comply with. The legislature has appropriated millions of dollars to assist in compliance including technology and employees. Yet the same compliance issues continue to surface from DOR without any statistics on the effectiveness of new legislation or appropriations they have received in the past three sessions.

## Goal 4: Continue to enhance and augment the department's general compliance initiatives and activities in order to keep taxes fair and low for all Montanans.

Objective 1. Continue to provide and make more effective compliance activities addressing state income and business taxes, particularly in those areas that have clearly demonstrated a need for additional compliance activity and/or a significant return on investment, including, but not limited to:

- ✘ Underreporting of income by sellers of Montana real property;
- ✘ Underreporting of income by partners and shareholders of pass-through entities operating in Montana;
- ✘ The proper allocation and reporting of income associated with taxpayers involved in abusive tax shelters;
- ✘ Underreporting of income or non-filing by out-of-state companies doing business in Montana;
- ✘ The collection of delinquent taxes, including those owed by out-of-state residents and companies.

## Goal 8: Implement new processes, policies, procedures and laws to maintain the effective and orderly administration of the department's legal services office.

Objective 1. Upgrade the case management and tracking system in the Office of Legal Affairs to facilitate

caseload management, focus accountability, and increase the reliability of the legal office calendaring system.

Objective 2. Develop legislation or procedures to reduce the disruption to local governments caused by large (centrally-assessed) property tax protests, and streamline or otherwise reform and rationalize the centrally-assessed property litigation process.

Objective 3. Following the close of each legislative session, review all agency rules and internal policies and procedures and modify as necessary to ensure they reflect new legislation.

### **Upcoming Administrative Rule Hearings**

The department is proposing the following rule changes. While some are housekeeping or implementing language from bills passed during the 2009 Session, others have language that should be reviewed closer. Please let us know if you have any comments.

[MAR Notice No. 42-2-817](#), adoption and amendment of rules relating to telecommunications 9-1-1. Hearing date: for November 23, 2009, at 1:30 p.m. Close of comment is December 4, 2009. The department entered into negotiated rulemaking with a nine-member committee representing industry, local governments, and state programs. The members contemplated whether the 9-1-1 fees should apply to prepaid services. The rule proposes that the provider of the service will be responsible for remitting the tax. A "Service provider" means an entity that offers services to subscribers in Montana to allow two or more persons in different locations to communicate orally, without regard to the technology or medium the entity uses to provide the telecommunications service, and access to telecommunications relay service. The term includes providers of telecommunications service, including but not limited to providers of internet protocol-enabled voice communications service and wireless services.

[MAR Notice No. 42-2-816](#), amendment of rules relating to the property tax assistance program and tax exemptions for disabled veterans. Hearing date: for November 24, 2009, at 4:00 p.m. Close of comment is December 4, 2009. The department is proposing to clarify language in both property tax assistance programs to better inform all Montana taxpayers about their potential eligibility for the property tax assistance program and to note that the application period will be April 15 rather than March 15.

During the 2009 Session there was language added to [HB658](#) to further clarify what income sources the department will use to determine if the applicant qualifies. The legislation provides that eligibility will be determined from total household income with no deductions for losses, depreciation, depletion, or any Montana or federal adjustment to income. In an effort to give clear direction to potential eligible taxpayers,

examples of what are considered household income are specified in the new rule.

[MAR Notice No. 42-2-815](#), adoption and amendment of rules relating to Agricultural Land Valuation. Hearing date: for November 23, 2009, at 8:30 a.m. Close of comment is December 4, 2009. It is the intent of the department, through the following rule amendments to bring the rules into compliance with the recommendations of the 2006-2008 Governor's Agricultural Land Advisory Council and guidelines from the 2009 Legislative Select Sub-Committee on Reappraisal. In general, the rules are necessary to ensure that the taxpayers and affected public understand how some of the data used in the valuation of agricultural land is gathered and used in the application of the law.

[MAR Notice No. 42-2-814](#), amendment of rules relating to forest land property. Hearing date: for November 23, 2009, at 9:30 a.m. Close of comment is December 4, 2009. The department is proposing amendments to comply with the statutes implemented in HB658 for the reappraisal of forest land and supported by advice from the 2009 Legislative Select Sub-Committee on Reappraisal.

[MAR Notice No. 42-2-813](#), amendment of rules relating to property taxes and the trend tables for valuing property. Hearing date: for November 24, 2009, at 3:00 p.m. Close of comment is December 4, 2009. The department is proposing to amend ARM 41.21.113 to clarify through the trend tables how the department arrives at market value as required by 15-8-111, MCA. Annually, the department updates these schedules to inform taxpayers of the current percentages used by the department when valuing and taxing their property.

The proposed rules also implement [HB487](#) passed in the 2009 Session. The bill provided that business equipment that is part of a dealer sales program shall be considered a part of the dealer's inventory program and exempt from taxation. The department is proposing new language to clarify the conditions to qualify for the exemption.

[MAR Notice No. 42-2-812](#), amendment of rules relating to withholding taxes. Hearing date: for November 24, 2009, at 1:00 p.m. Close of comment is December 4, 2009. The department is proposing the amendments to change the format of the rule in order to make the rule consistent with other rules in ARM Title 42 and to implement [HB24](#) from the 2009 Session. It is mostly housekeeping.

[MAR Notice No. 42-2-811](#), amendment of rules relating to coal severance. Hearing date: for November 18, 2009, at 3:00 p.m. Close of comment is November 30, 2009. The department is proposing to amend ARM 42.25.501 to link commonly used terms defined in the gross proceeds rules and the severance tax rules. The proposed rule also implements the provisions of [SB509](#)

which clearly defined the term “prepared for shipment. The definition of contract sales price and production taxes are eliminated because the statute has definitions for both. The definition of final destination is inserted to further clarify what the department means by this term. The definition of third party intermediary is added to define the term and clarify that a sale to an intermediary does not establish the contract sales price for tax purposes of the coal.

[MAR Notice No. 42-2-809](#), adoption of rule and amendments relating to income tax. Hearing date: for November 18, 2009, at 1:00 p.m. Close of comment is November 30, 2009. This proposed rule implements provisions of [SB260](#) from the 2009 Session, but contains other changes that could use clarification from the department.

#### **State Administration and Veterans’ Affairs Interim Committee**

Actuaries for the state retirement systems reported significant losses on retirement fund investments indicating potential sharp rises in employer contribution rates in the next several years. Ed MacDonald, Cavanaugh Macdonald, estimated employer contributions for the Teachers Retirement System would more than double from 9.66 percent currently to 20.43 percent by 2015 while Stephen McElhaney, FSA - Cheiron, estimated total contributions for the Public Employees system would rise to 21 percent, implying employer contribution nearly doubling from 7.17 percent to 14 percent. These estimates are based on costs, contributions and investment earnings following assumptions used, the most volatile being the 8 percent annual future investment income. These results are similar to those anticipated in our [July newsletter](#).

The committee heard testimony from retirement boards and interested beneficiaries, the state board of investments, the director of the National Conference of State Legislatures on other states’ actions and National Association of State Retirement Administrators expert on public employee retirement plan design. The committee finalized their request for consultant services to assist with their study of retirement plan proposals and discussed their thoughts about the scope and direction of their work. The next meeting is scheduled for December 11th.

#### **Bridges to the Future – A conference Exploring K-12 School Funding and Natural Resource Development in Montana**

On October 15<sup>th</sup> and 16<sup>th</sup> our association participated in a joint conference with the Montana Rural Education Association and the Montana Petroleum Association. The conference was attended by nearly 100 people from around the state, including school board trustees and administrators, representatives from the natural resources industry and some members of the Montana legislature.

We came together without preconceived notions, we came to learn more about the issues important to the education community and the business community, in particular natural resources. All three associations are truly interested in being at the table involved in discussions that improves the climate for energy development in Montana and funds our education needs for our most valuable resource.

Over the two days participants learned more about school funding in Wyoming, heard reports on two important components of school funding: teacher retention and recruitment and facilities. There was also a panel discussing the outreach programs being offered to schools and teachers from federal and state agencies and some of the associations around the state. We’ll be posting the links to some of these programs on our website: [www.montax.org](http://www.montax.org).

The state expert on fiscal policy said the natural resources industry is a critical cog in the state’s economy. “A tremendous amount of revenues go to pay not only for schools but for a lot of state and local services,” Terry Johnson, Principal Fiscal Analyst, Montana legislature. “Our natural resources - oil and gas, coal, metals – are critical to our state’s economy. When you get a flavor of how much oil and gas production taxes contribute to state coffers, it’s substantial,” he said.

In 2008 over \$324 million was paid to the state in oil and natural gas production taxes. Johnson noted that we have seen a decline in actual oil and gas production in Montana. “If that continues this revenue won’t be here, even if prices rebound,” he noted. “The amount of production can affect our state revenues.

More discussions are being planned to continue where we left off. We’ll keep you posted on when these will occur.