MONTANA
ADMINISTRATIVE
REGISTER

DEPARTMENT OF REVENUE

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-430.2

Summary

Adoption of NEW RULE 1 (42.19.203), NEW RULE 2 (42.19.204), NEW RULE 3 (42.19.205), and NEW RULE 4 (42.19.206) to Implement Property Tax Relief Legislation Enacted by the 69th Montana Legislature

Previous Notice(s) and Hearing Information

On November 7, 2025, the Department of Revenue published MAR Notice No. 2025-430.1 pertaining to the proposed adoption of the above-stated rules in the 2025 Montana Administrative Register, Issue Number 21.

On December 1, 2025, the department held a public hearing to consider the proposed adoption. The following persons appeared and provided oral testimony to the proposed rulemaking: Jim and Lois Syth, Eric Bryson, Art and Nell Mangels, Sen. Mary Ann Dunwell (SD 42), Bob Story, Executive Director, Montana Taxpayer's Association (MTA), Terry Screnar, Paul Fugelvand, and Connie Fitzpatrick. There were also persons present at the public hearing who observed but did not provide any oral testimony.

The department also received written comments from Tyler R. Gernant, Clerk and Treasurer for Missoula County, Bob Story (MTA), Mike Rossi, CPA, Eric Bryson, and 27 Montana property owners.

Final Rulemaking Action – Effective January 10, 2026

ADOPT AS PROPOSED

The agency has adopted the following rules as proposed:

42.19.203 DEFINITIONS

42.19.204 REDUCED TAX RATE APPLICATION PROCESS; DETERMINATIONS; APPEAL RIGHTS; AND PROGRAM COMPLIANCE

ADOPT WITH CHANGES

42.19.205 ADMINISTRATION OF REDUCED TAX RATES

The department corrected a minor punctuation error in ARM 42.19.205(8)(c)(iii) where the informational example describing Multifamily Dwelling Improvements Value contained a dash (-) and colon (:). Since consistent punctuation for the rule is a colon, the dash in the proposed text has been removed.

42.19.206 DETERMINING EFFECTIVE TAX RATES (ETR) FOR QUALIFYING CLASS FOUR PROPERTY

(1) There is a graduated property tax rate reduction for class four property that also qualifies for the reduced tax rates provided in 15-6-134, MCA. For purposes of this rule, the term "qualifying property" or "property" will be used to describe this class four property.

(2) To implement the reduced tax rates described in (1), the department will determine an ETR for each qualifying property. An ETR is determined by calculating the taxable value for each graduated tier of eligible market value and adding the respective taxable values from each tier to arrive at a total eligible taxable value; then dividing the total eligible taxable value by the total eligible market value of the qualifying property.

(3) If a qualifying property is enrolled in the statutory property tax assistance program (PTAP), a PTAP ETR will be calculated for the portion of the property's PTAP benefit by applying the respective rate reduction multiplier to the tiered tax rates first. Any portion of the property's value not eligible to receive the PTAP benefit will have a separate ETR calculated without any rate reductions applied.

(4) A qualifying property receiving a partial exemption under Montana law will have an ETR calculated for only the non-exempt portion of the property's value.

(5) A qualifying property receiving an abatement (such as a new or expanding industry (NEI) abatement) will have an ETR calculated for it as if it were fully taxable. Any reduction from the abatement will be applied to the overall ETR and used to determine the taxable value for the portion of value eligible to receive the abatement.

(6) The department will compute all ETR percentages out to the third decimal place, but the final rate will be rounded to two decimal places to achieve consistency with all statutory and rule expressions of tax rates and historical practice.

(a) If the third decimal place is fewer than five, the second decimal place will be kept;

(b) If the third decimal place is equal to or greater than five, the second decimal place will round up.

(7) A rounded ETR will be applied against the market value for each qualifying property to calculate the property's taxable value.

(8) The following are examples of the ETR calculation and rounding processes described in this rule:

(a) A qualifying residential property has a market value of $750,000. A graduated tax rate of .76% applies to the first $378,000 of market value and a graduated tax rate of .9% applies to the remaining $372,000.

Taxable Value = ($378,000 * 0.0076) = $2,873

Taxable Value = ($372,000 * 0.009) = $3,348

Total Taxable Value = $2,873 + $3,348 = $6,221

ETR = Total Taxable Value / Total Market Value

ETR = $6,221 / $750,000 = .829%

Rounded ETR = .83%

(b) A qualifying commercial property has a market value of $3,000,000. A graduated tax rate of 1.5% applies to the first $2,274,000 of market value and a graduated tax rate of 1.9% applies to the remaining $726,000.

Taxable Value = ($2,274,000 * 0.015) = $34,110

Taxable Value = ($726,000 * 0.019) = $13,794

Total Taxable Value = $34,110 + $13,794 = $47,904

ETR = Total Taxable Value / Total Market Value

ETR = $47,904 / $3,000,000 = 1.596%

Rounded ETR = 1.6%

(c) A qualifying residential property receives the PTAP benefit at an 80% reduction and is valued at $618,000. The first $418,000 in value is eligible to receive the 80% reduction for PTAP.

Taxable Value = (.76% * .2) = (.15% * $378,000) = $567

Taxable Value = (.9% * .2) = (.18% * $40,000) = $72

PTAP Taxable Value = 567 + 72 = 639

PTAP Effective Tax Rate = ~~655~~ 639/ $418,000 = .152%

Rounded Effective Tax Rate for PTAP Value = .15%

Taxable Value = (.9% * $200,000) = $1,800

Effective Tax Rate for Non-PTAP Value = .9%

(d) A qualifying commercial property has a market value of $4,000,000 and is receiving a partial nonprofit healthcare exemption on $1,000,000 of property value. The $1,000,000 in value that is exempt will be subtracted from the total value of $4,000,000, leaving $3,000,000 in taxable market value. A graduated tax rate of 1.5% applies to the first $2,274,000 of taxable market value and a graduated tax rate of 1.9% applies to the remaining $726,000.

Taxable Value = ($2,274,000 * 0.015) = $34,110

Taxable Value = ($726,000 * 0.019) = $13,794

Total Taxable Value = $34,110 + $13,794 = $47,904

ETR = Total Taxable Value / Total Market Value

ETR = $47,904 / $3,000,000 = 1.596%

Rounded ETR = 1.6%

(e) A qualifying commercial property has a market value of $3,000,000 and is receiving a 50% NEI abatement on $1,000,000 of market value. A graduated tax rate of 1.5% applies to the first $2,274,000 of market value and a graduated tax rate of 1.9% applies to the remaining $726,000 to calculate an overall ETR. The NEI abatement reduction is then applied to the overall ETR for the $1,000,000 in market value receiving the abatement.

Taxable Value = ($2,274,000 * 0.015) = $34,110

Taxable Value = ($726,000 * 0.019) = $13,794

Total Taxable Value = $34,110 + $13,794 = $47,904

ETR = Total Taxable Value / Total Market Value

ETR = $47,904 / $3,000,000 = 1.596%

Rounded ETR = 1.6%

NEI Abatement (1.6% * 50% = .8%)

Abated Taxable Value = ($1,000,000 * .008) = $8,000

Non-Abated Taxable Value = ($2,000,000 * .016) = $32,000

Authorizing statute(s): 15-1-201, 15-6-425, MCA

Implementing statute(s): 15-1-201, 15-6-134, 15-6-402, 15-6-405, 15-6-411, 15-6-415, MCA

Statement of Reasons

The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT 1: The department received testimony during the public hearing and several written comments in opposition to the amended property tax rates for non-principal residences (i.e. second homes/cabins) enacted under House Bill 231 (HB 231) and Senate Bill 542 (SB 542). The commenters said they would experience significant increases in their property taxes and financial hardship based on increases in valuation of their property together with the increased second home tax rate of 1.9% in 2026. Commenters requested that the department explore additional tax relief options or, alternatively, adopt a policy that would exempt longtime resident family-owned properties (a/k/a “legacy properties”) from the normal residential property tax rate of 1.9%.

Mr. Rossi commented like others about the tax policy enacted by the legislature but the observations are based on his expertise and client advocacy in tax matters as a certified public accountant.

RESPONSE 1: The department empathizes with the property owners’ testimony and the comments received. However, the issues raised pertain to the tax policy of the underlying legislation.

The legislature granted rulemaking authority to the department under SB 542 to implement and administer the reduced tax rates. However, that rulemaking authority does not authorize the department to create additional exceptions or tax exemptions for properties that do not qualify for the reduced rates. What the commenters request is a change in the law that can only be resolved by the legislature.

Notwithstanding, the department will report on property owner testimony and the comments received for this rulemaking to the legislature’s Revenue Interim Committee.

COMMENT 2: The department received several written questions and questions at the public hearing about how the reduced tax rates apply to their specific property ownership situations.

RESPONSE 2: Many examples of property ownership uses are provided in NEW RULE 3 and are available as frequently asked questions (FAQs) on the department's web page at homestead.mt.gov. For any questions that require additional consideration, the department encourages property owners to contact us at https://revenue.mt.gov/contact or through any regional or area department office.

Unfortunately, news stories regarding the proposed rulemaking confused property owners who believed the rulemaking and the public hearing were an opportunity to request changes to the tax policy enacted under HB 231 and SB 542. Department representatives answered as many questions as they could during this rulemaking and at the December 1 public hearing, while preserving the purpose of the proceedings. As described in Response 1, the department cannot provide the relief the commenters seek but reiterates its willingness to report to the Revenue Interim Committee.

COMMENT 3: Tyler Gernant, Clerk and Treasurer for Missoula County, commented that the department's task in implementing SB 542 is an extremely difficult one, if not impossible. He believes the legislature intentionally left important parts of that law vague in the hopes that the department would provide the necessary specificity.

Mr. Gernant strongly believes that public trust and confidence in the property tax system relies on fairness, equity, and simplicity. The ability to understand property taxes is essential to having faith in the system.

RESPONSE 3: The department appreciates Mr. Gernant's comments and agrees that the implementation of SB 542 is challenging. The department is promulgating rules that are consistent with SB 542 and reasonably necessary to effectuate the bill's purpose without engrafting any additional and contradictory requirements to the laws created or amended under SB 542.

The department also agrees with Mr. Gernant that public trust and confidence in the property tax system relies on fairness, equity, and simplicity. The legislature's property tax policy is enacted in statute, and the department implements that policy. The department can neither set policy, exceed the authority delegated to it by the legislature, nor promulgate rules that are inconsistent with the law.

COMMENT 4: Mr. Gernant commented his concerns in both the language of SB 542 and the language of the proposed rules regarding the definition of a long-term rental. He believes the statute itself leaves critical terms undefined and the proposed rule does nothing to clarify them. As a result, the rule relies almost entirely on self-reporting and self-interpretation by property owners, creating a high likelihood of unequal treatment for properties that are used in the same way.

RESPONSE 4: Generally, the department directs Mr. Gernant to Responses 1 and 3. Based on the plain language of sections 5 through 7 of SB 542, the department concludes that the

legislature meant for a simple application and approval process which relies on a property owner's prospective declarations of ownership, eligibility, and use of the property to enroll for either of the reduced tax rates.

Property owners who enroll their qualifying property into either reduced rate and meet the respective requirements for those reduced rates will receive the reduced rates. To this end, the department disagrees that there is a high likelihood of unequal treatment for properties that are used in the same way because the legislature has created distinct uses that qualify a property for a reduced rate. Property owners who use their property in accordance with the requirements to qualify for either reduced rate under SB 542 will have a different tax rate than people who use their property in a way that does not qualify for a reduced rate under SB 542.

The legislature provided an informal review process in SB 542, section 9, which indicates equity of treatment of property owners as aggrieved applicant(s), and penalties in section 8 for false or fraudulent applications should the department determine that in the review of an application for the reduced tax rates.

COMMENT 5: Mr. Gernant believes SB 542 and the rules are too vague to be applied consistently including a statutory definition of long-term rental that leaves key terms undefined; an under-explained concept of property that "supports" improvements that are classified in a particular way that is imported from a different statutory context without meaningful standards; and a rule that adds almost no clarifying substance and instead relies on self-reporting by owners and ad hoc interpretation by department staff.

RESPONSE 5: Generally, the department directs Mr. Gernant to Responses 4. Section 5(2) of SB 542 defines long-term rental with enough specificity for the department to administer the reduced rental rate.

Addressing improvements that directly support and enhance a primary residence (for example, accessory dwelling units and unattached garages) in the rules was important because the definitions of principal residence and long-term rental in SB 542 included them; and improvements that directly support are given more value than for non supporting or marginal improvements on the same parcel. Mass appraisal standards stress equity across property groups, which is achieved by using consistently applied models, not by giving every dollar of improvement cost the same value contribution.

COMMENT 6: As an extension of Comment 4, Mr. Gernant questions:

1) How long does the tenant need to occupy the dwelling? The statute implies that they just need to occupy the dwelling as their residence for some undefined period during the tax year. In other words, someone could have a binding lease for 7 months, but occupy it as their residence for one week, one month, or five months. In which of those scenarios does it qualify?

2) What evidence is required: driver's license address, voter registration, utility bills, tax returns, or just a tenant's statement?

3) If someone leases month-to-month but also maintains another home, is the unit still used as a "residence" for that period?

4) Can a landlord simply declare that each month-to-month tenant is treating the unit as a residence?

Mr. Gernant believes these questions are unanswered in SB 542 and the rules and leaves taxpayers and the department to fill in the gaps on a case-by-case basis.

Similar to Mr. Gernant, Mr. Bryson commented his opinion that the rules incorrectly require residency and confuse that term with a newly inserted term 'occupancy.' He provided additional commentary that the rules seem to imply residency rather than legal access to the property under the terms of a qualifying long-term lease. Mr. Bryson commented to NEW RULE 2(7), that neither the statute nor the proposed rules require the long-term rental to be 'rented to tenants as a dwelling.' Further, he states that a qualifying long-term rental is clear in both duration and applicability. The holder of the long-term lease has permission to occupy the structure, and because the long-term lease applies to class 4 residential it only applies to residential property. Mr. Bryson even suggested the department adopt the definition of "tenant" from the Montana Landlord-Tenant Act.

RESPONSE 6: In response to Item #1 from Mr. Gernant and to Mr. Bryson's first comment, the definition for long-term rental in section 5(2)(c) of SB 542 includes the phrase "occupied by tenants who use the dwelling as a residence." The plain language of this is easily understood. In determining occupancy, there are several factors that can determine whether a tenant has satisfied the "occupancy" of the dwelling as a residence. How much (or how little) time a tenant is residing in the dwelling as a residence is one of those factors. However, those can only be determined on a case-by-case basis due to the varying agreements and situations.

In response to Item #2, the property owner who enrolls their property for the rental rate attests to eligibility and provides the required income and expense data or substantiation requested by the department.

In response to Item #3, the relevant requirements for a qualifying long-term rental are that it is rented for periods of 28 days or more at least seven months per year. Whether that is a month-to-month, a fixed term, or alternatively, more than one lease that ends up meeting the 28 day/seven-month requirement for a year is not controlling. There is no prohibition against the tenant maintaining another home. However, there is a requirement that the tenant occupies the dwelling they are renting as a residence.

In response to Item #4, a property owner enrolling for the rental rate must demonstrate the dwelling was: (1) rented for periods of 28 days or more for at least 7 months in each tax year

for which the rental rate is claimed; or (2) vacant for not more than 5 months to complete documented property repairs; and that is occupied by tenants who use the dwelling as a residence during the year in which the rental rate is claimed. If a property owner/landlord attests to the use of the property, as described above, and provides substantiation of the income required in section 7 of SB 542, the property will be granted the rental rate.

Mr. Bryson's comment that neither the statute, the proposed rules, nor the long-term rental application can require the long-term rental to be rented to tenants as a dwelling is incorrect. SB 542 requires tenants to occupy and use the dwelling that is rented as a residence. The term "dwelling" to describe the class 4 property that is subject to a long-term lease and "residence" as the intended use of that dwelling by a tenant. Although the law does not define specifically what "occupy" means, that use of "occupy" in the phrase "occupied by tenants who use the dwelling as a residence" is easily understood. The department proposed NEW RULE 2(7) as a necessary reporting requirement for the occurrences that terminate the reduced tax rate to a property, as provided in section 7(2)(d)(ii) of SB 542. The rule text is verbatim to the bill.

The department also declines Mr. Bryson's suggestion to adopt the definition of "tenant" from the Landlord-Tenant Act. That definition could, but may not always, apply to tenants who live in a dwelling that receives a rental rate.

COMMENT 7: Mr. Gernant provided examples with questions like: at what point, if any, does incidental commercial activity cause that shop to lose its residential classification and become commercial? How much commercial use (square footage, hours, or income) is tolerated before classification changes? Do personal storage and hobby use "support" the residence, while part-time income-earning activities do not?

RESPONSE 7: The department classifies each structure according to its predominant (primary) use, in accordance with International Association of Assessing Officers (IAAO) standards. A commercial property that is used for residential purposes (like personal storage or hobby use) will be classified as a residential structure. A structure that was used primarily for personal storage that also included a small office will be classified as a residential structure. The goal is uniformity and equity, ensuring similar properties are classified consistently based on the primary use of the property.

The department also believes it necessary to reiterate that mass appraisal methodology is used in property classification and valuation and the level of detail that Mr. Gernant suggests is not pursued for the purposes of approving applications and administering the reduced rates.

COMMENT 8: Mr. Gernant reiterated his comments in Comment 4 (SB 542 and the rules' over-reliance on self-reporting and self-interpretation) and provided examples of concern over owner-occupied homes with occasional room rental, unrealistic administrative burdens for tracking rental duration and residence status in multifamily properties, and whether property that is actively listed for long-term rental, but never actually rented, meets the long-term rental standard.

RESPONSE 8: The department directs Mr. Gernant to Responses 3 and 7 as its response to this Comment 8.

COMMENT 9: Mr. Gernant commented his belief that duplexes, accessory dwelling units, and “guest spaces” lack clear standards for comparing them under SB 542 and the proposed rules. He notes it is not clear whether the rented side of the duplex is treated as a long-term rental, a primary residence, a second home, or something else when rented to friends or family members. Mr. Gernant also questions how the non-rented side of the duplex should be classified when it functions as occasional guest space for the owners, essentially mirroring an in-home guest room.

RESPONSE 9: The department generally directs Mr. Gernant to NEW RULE 3, which provides examples of how the tax rates apply to primary residences and multi-family dwellings. In response to the question about treatment of a guest space/non-rented side of a duplex, if the property does not qualify for the homestead rate or rental rate, it will be taxed at the rate of 1.9%.

COMMENT 10: Mr. Gernant states that basic due-process principles require that taxpayers be given fair notice of classification standards and that enforcement should not be left to unguided discretion. Mr. Gernant believes that two properties used in essentially the same way may be classified differently because the owners interpret “primary residence,” “long-term rental,” or “support” differently; and there are no clear, uniform criteria to apply.

Mr. Gernant contends this type of arbitrary classification already exists but is less impactful because the law does not distinguish between rental or owner-occupied residential property; and the introduction of this distinction will dramatically exacerbate a dormant issue. Introducing a distinction between a 0.76% and a 1.89% tax rate will make property disparity blatantly obvious. It is also unsupportable in the sense that it is not subject to consistently applied criteria across the state or even within Missoula County.

Mr. Rossi made similar comments and questions whether wealthy non-residents property owners are experiencing "taxation without representation." And what happens if/when they stop coming to Montana?

RESPONSE 10: Generally, the department directs Mr. Gernant and Mr. Rossi to Response 4. The department responds that property is classified and taxed at the rates as provided in SB 542 based upon the plain language of the statute. Every property owner is afforded the same opportunity to enroll their property to receive the reduced rates based on the use of their specific property and the eligibility criteria outlined in SB 542. The legislature, through SB 542, determined that certain uses of property are taxed at different rates. The legislature provided an informal review process in SB 542, section 9, which indicates equity in treatment of property owners as aggrieved applicants and affords basic due process. Additionally, SB 542, section 24, provides a mechanism for a property owner to claim a refund if they otherwise qualified for a

reduced rate but did not enroll which affords the property owner with further due process and helps ensure equitable treatment.

COMMENT 11: Mr. Story stated his belief that it is difficult to comment adequately on proposed rules that reference statutory sections of law that are not yet available to the public and when the Montana Code is finally updated, the law sections referenced in the rule aligning with the Montana Code.

RESPONSE 11: The department appreciates the comments and responds that state agencies have struggled, historically, with referencing recent legislation for cross-referencing in rules because there is a bill number, a session law "chapter" number, and new bill sections which are codified, when applicable.

In the interest of expediency without the need to amend a rule after adoption, the department references new bill sections as they progress towards final codification: by bill number first, then session law, then the codified citation (when available). Since the department accesses the Legislative Service Division's publicly available bill-to-statute ("Code Sections Affected") tables, there is no reasonable concern with accuracy and no need to amend the rule to update a reference to the final statute.

COMMENT 12: Similar to Comment 11, Mr. Story commented that referencing the statute in the definition section of the rules may be expedient for the department, but doing so makes it difficult for the average citizen to know what any definition is without having access to the Montana Code and the particular section the rule refers to. Mr. Story believes if the department intends to use the statutory definitions, it would be simpler to just say all definitions in this rule are the same as the statutory definitions.

RESPONSE 12: To the greatest extent possible, the department prefers the legislature to provide necessary program definitions. Since rules are derived from the authorizing and implementing statutes, the public should look to statute first and administrative rule second. When the department proposes a definition, it weighs the need for clarifying a term or concept against unnecessarily repeating statute (see 2-4-305(2), MCA). If a statutory definition is substantively sufficient but lacks procedural application, or if phrasing from the bill is such that it requires the department to align it with current definitions or business practices, the department will adopt a definition and cross-reference the statutory definition. Such was the case with many of the definitions proposed in NEW RULE 1 and the justification for their adoption.

COMMENT 13: Mr. Story commented that NEW RULE 2 clarifies some of the ambiguities in the statute, but it again references new statute numbers so a user of the rule will need access to the Montana Code.

But of a more important concern for Mr. Story is the "catch all language" in (4) "any other information required by the department that is relevant to the applicant's eligibility." Mr. Story

contends this language clarifies nothing for a property owner enrolling for the homestead rate or the long-term rental rate. It could allow for unequal treatment of applicants as varying degrees of information could be required of similarly situated applicants. While that language may be appropriate in statute, it is there to allow the department to specify what other information they will need to implement the statute. The rule should tell taxpayers what additional information the department will require.

RESPONSE 13: The department directs Mr. Story to Response 12, which the department believes is responsive to the first portion of this comment.

In response to the second portion of Mr. Story's comment, the department agrees in principal, but the law is new and a list of non-exhaustive examples of "relevant information" for the variety of class 4 property uses is not practicable. The department believes the most viable option under NEW RULE 2(4) to be a short-term, necessary reiteration of the statutory requirement that would be applied on a case-by-case basis for the more complex property use situations or to verify compliance with documentation requirements prior to the approval (or denial) of an application. But the department disagrees that this standard inherently fosters unequal treatment of applicants because the department can reevaluate documentation standards over time and propose rule amendments based on data-driven experiences.

COMMENT 14: Mr. Story commented that the temporary absence exceptions in NEW RULE 2(3) should also include seasonal absences due to people going to warmer climates for winter as long as they are not absent for over five months.

RESPONSE 14: The definition of "principal residence" in SB 542, section 5, provides that the owner can demonstrate that they owned and lived in the property for seven months in a year. If a person is absent from their principal residence for not more than five months because they are living in a warmer climate, their Montana property could still qualify for the homestead rate.

Beyond this, section 9(1)(b) of SB 542 provides that a property owner ". . .may request that the department consider extenuating circumstances to grant an application. Extenuating circumstances include but are not limited to extraordinary, unusual, or infrequent events that are material in nature and of a character different from the typical or customary, and that are not expected to recur."

Absences for seasonal travel to warmer climates are not an extenuating circumstance to delay submitting a reduced tax rate application. Notwithstanding, the department confirms that the list of examples in the rule is non-exhaustive (i.e., "such as. . . ") and there may be an unlisted extenuating circumstance that could be considered for an application extension.

COMMENT 15: Mr. Story commented that NEW RULE 3 does a good job of describing various scenarios of property ownership and use. He suggests the department clarify how condominiums will be handled because, in many cases, the land is owned by the condominium

association and the units are owned by individuals. What criteria will the department use to qualify those units for either of the exemptions?

RESPONSE 15: Condominiums qualify for the reduced rates for a principal residence or long-term rental as any other property that meets all the eligibility requirements to receive the reduced rates.

Condominiums typically have a portion of the land value allocated to each individual unit based upon that unit's percent ownership of the common elements as stated in the condominium declaration. The portion of land value and the value of the improvements would receive the reduced rate the same as any other qualifying property.

The department will include additional information pertaining to condominium units within its FAQ documents which are posted on our website and publicly available.

COMMENT 16: Mr. Story commented that NEW RULE 4 explains very well how the department will calculate ETRs for 2026. But Mr. Story assumes for 2027 the numbers will change because the calculations are based on average median values and he questions what the department will do to address the changes in median value - update rules every two years in a new appraisal cycle?

RESPONSE 16: The department acknowledges that the examples of ETR calculations in NEW RULE 4 contain median values specific to the 2026 tax year. While the examples utilize 2025-2026 median values, the department believes that the examples still provide general clarity on how the ETR is calculated which would still be applicable in future years, provided the law remains unchanged. The department is also open to amending NEW RULE 4 each reappraisal cycle, as necessary, to update the median values in the calculation examples.

COMMENT 17: Mr. Rossi commented his opinion that from a communication standpoint, it would be helpful if the department explained that the "tax rate" is really more of a conversion rate (used to convert appraised value to taxable value). He notes he has spent considerable time explaining to property owning clients that their tax bills wouldn't be increasing to 1.9% or 2.2% of appraised value.

RESPONSE 17: The department recognizes alternate terminology may be used instead of tax rate, such as a conversion rate or assessment ratio, that might provide different understanding of the subject matter. The department often makes conceptual differentiation and explanations when presenting to the public or stakeholders. However, the use of "effective tax rate" within the rules is consistent with the rate reference in statute to "tax rate."

COMMENT 18: Mr. Rossi made comments that refer to the calculation of taxes " . . . under the 2024 rules, the 2025 rules, the 2026 rules, and the 2026 non-resident rules" and he references "non-resident surcharge[s]" based on 2026 millage.

RESPONSE 18: The department appreciates that Mr. Rossi represents non-resident property owners who are affected by the change in tax policy, but there is no reference in the underlying legislation to non-resident property owners. The department declines to provide a response that is based on legislative policy and is outside the scope of the rulemaking.

COMMENT 19: Senator Dunwell provided extensive testimony at the December 1 public hearing, most of which is outside the scope of the rulemaking.

Senator Dunwell commented her empathy for property owners experiencing significant increases in their property taxes and financial hardship based on increases in valuation of their property together with the increased tax rate on second homes. And like the comments summarized in Comment 1, Senator Dunwell requested that the department explore additional tax relief options and adopt a policy that would exempt longtime resident family-owned second properties (a/k/a "legacy properties") from the 1.9% tax rate.

Senator Dunwell opined that the department should consider the legislative intent behind HB 231 and SB 542 which was that the legislature did not intend to penalize hardworking Montana taxpayers but to tax wealthier nonresident owners of second homes in Montana. Senator Dunwell believes the department has been granted requisite authority by the legislature to correct, in rule, the legislature's policy based on a review of legislative intent.

RESPONSE 19: The department finds Senator Dunwell's conclusions regarding legislative intent unpersuasive because the enacted version of SB 542 does not contain any statements of intent or legislative findings, except in reference to local government charters. The department must proceed under the plain language of the statute and the holdings articulated by the Montana Supreme Court that "[s]tatutory language must be reasonably and logically interpreted and words given their usual and ordinary meaning" and "[w]here the language is clear and unambiguous, the statute speaks for itself and we will not resort to other means of interpretation." See State v. Stanczak, 2010 MT 106, ¶ 17; In the Matter of R.L.S., 1999 MT 34, ¶ 8.

The department's rulemaking authority granted by the legislature under SB 542, section 10, is "to adopt rules that are necessary to implement and administer [sections 5 through 10]." The department cannot promulgate rules that exceed the department's rulemaking authority or are inconsistent with the law enacted (see 2-4-305, MCA).

COMMENT 20: The department was notified of a minor punctuation error in the proposed text for ARM 42.19.205(8)(c)(iii) where the informational example describing Multifamily Dwelling Improvements Value contained a dash (-) and a colon (:).

RESPONSE 20: The department has corrected the punctuation for the rule upon adoption.

COMMENT 21: The department was notified of a minor error in the example at ARM 42.19.206(8)(c) where the PTAP Taxable Value of 639 in the third line was not carried down to the PTAP Effective Tax Rate formula in the fourth line.

RESPONSE 21: The department has corrected the example for the rule upon adoption.

Contact

Todd Olson, Rule Reviewer - Department of Revenue, Legal Services Office
(406) 444-7905
todd.olson@mt.gov

Rule Reviewer

Todd Olson

Approval

Brendan Beatty, Director of Revenue