

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 42.21.154, 42.21.155,) PROPOSED AMENDMENT AND
42.21.158, and 42.22.1311 and the) REPEAL
repeal of ARM 42.21.125 pertaining)
to 2022 Personal Property)
Depreciation Schedules and Trend)
Tables and updated business)
equipment exemption)

TO: All Concerned Persons

1. On November 4, 2021, at 10:00 a.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules. The conference room is most readily accessed by entering through the east doors of the building.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, please advise the department of the nature of the accommodation needed, no later than 5 p.m. on October 15, 2021. Please contact Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or todd.olson@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY. The department proposes to amend ARM 42.21.155 and 42.22.1311 to update the authority of the web-based Personal Property Depreciation Schedules and Trend Tables publication (publication), adopted and incorporated by reference in the rules, to the 2022 version. The publication is updated annually, effective January 1, and is located within the department's website at <http://www.mtrevenue.gov>. The 2022 publication reflects changes in personal property and industrial machinery and equipment depreciation and trend factoring data in the department's valuation manuals and guides since last year. Both the 2021 publication and the proposed 2022 publication are available for review.

The department proposes to amend ARM 42.21.158 to implement changes made to the business equipment tax exemption amount under House Bill 303 (2021) (HB 303). HB 303 increased the \$100,000 exemption to \$300,000 which reduces the number of small business owners required to report their business equipment for taxation. The amendments propose to defer, by cross reference, to the statutory exemption provided in 15-6-138, MCA, instead of providing the exemption amount. The proposed amendments eliminate the need for future updates to the rule merely for exemption amount changes.

The department also proposes to amend ARM 42.21.154 by transferring content from ARM 42.21.125(5) to ARM 42.21.154(3) for improved organization of rule content pertaining to personal property valuation of leased or rental equipment.

Based on the proposed amendments to ARM 42.21.154, the department proposes the repeal of ARM 42.21.125, as the majority of the rule is provided in 15-6-202, MCA, ARM 42.21.154, and 42.21.159.

While this general statement of reasonable necessity covers the basis for the following proposed rulemakings, it is supplemented below, where necessary, to explain rule-specific changes.

4. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

42.21.154 ANNUAL VALUATION OF PERSONAL PROPERTY

(1) and (2) remain the same.

(3) Leased or rental equipment that is not exempt under 15-6-202 or 15-6-219, MCA, is taxable and is valued in the same manner as similar non-leased equipment. Property brought into the state that meets the requirements under 15-6-202, MCA, is not taxable unless it is sold or otherwise disposed of in the state.

(4) through (8) remain the same.

AUTH: 15-1-201, 15-23-108, MCA

IMP: 15-6-135, 15-6-138, 15-6-202, 15-6-207, 15-6-213, 15-6-219, 15-8-111, MCA

42.21.155 PERSONAL PROPERTY CATEGORIES AND TRENDED DEPRECIATION METHODOLOGIES (1) through (3) remain the same.

(4) The department shall post its trended depreciation schedules for the upcoming tax year for the categories of personal property described below on the department's internet website located at <http://www.mtrevenue.gov>. The department adopts and incorporates by reference its ~~2024~~ 2022 Personal Property Depreciation Schedules and Trend Tables publication, effective January 1, ~~2024~~ 2022. The Depreciation Schedules and Trend Tables publication contains the detailed schedules and tables the department uses for valuing personal property and industrial machinery and equipment. The personal property categories and trended depreciation methodologies that apply to the Depreciation Schedules and Trend Tables publication are as follows:

(a) through (h) remain the same.

AUTH: 15-1-201, 15-23-108, MCA

IMP: 15-6-135, 15-6-138, 15-6-202, 15-6-207, 15-6-213, 15-6-219, 15-8-111, MCA

42.21.158 PERSONAL PROPERTY REPORTING REQUIREMENTS

(1) through (6) remain the same.

(7) As determined by the department, if the statewide aggregate market value of an individual's or business entity's class eight property is ~~\$100,000 or less~~

than or equal to the exemption provided in 15-6-138, MCA, the individual's or business entity's class eight property is exempt from taxation. If the aggregate market value of an individual's or business entity's class eight property is greater than \$100,000 the exemption provided in 15-6-138, MCA, the market value of an individual's or business entity's class eight property that is greater than \$100,000 the exemption is subject to taxation.

(8) The department will apply the exemption and the applicable tax rates identified in (a) ~~through~~ and (d) ~~(b)~~ to an individual's or business entity's class eight property by adding together the statewide market value of class eight property owned by the individual or business entity to determine the aggregate market value. If the aggregate market value of class eight property is:

(a) ~~\$100,000 or less than or equal to the exemption provided in 15-6-138, MCA~~, the taxable market value of the property is zero; or

(b) greater than \$100,000 the exemption provided in 15-6-138, MCA, the department will apply the \$100,000 exemption proportionally ~~between~~ among each property owned; apply the 1.5 percent taxable rate to the first \$6,000,000 in excess of the exemption, and apply the 3 percent taxable rate to the remaining taxable market value.

~~(c) \$6,100,000 or less, the department will apply the \$100,000 exemption proportionally between each property owned and apply the 1.5 percent taxable rate to the remaining taxable market value; or~~

~~(d) greater than \$6,100,000 the department will apply the \$100,000 exemption proportionally between each property owned, apply the 1.5 percent taxable rate proportionally to the next \$6,000,000 of taxable market value, and apply the 3 percent taxable rate to the remaining taxable market value.~~

(9) and (10) remain the same.

(11) Personal property owners whose aggregate class eight market value is \$100,000 or less than or equal to the exemption provided in 15-6-138, MCA, as defined in (4), will have no further reporting obligation, except:

(a) if the property owner acquires new personal property, the value of which brings the aggregate market value of the personal property above the \$100,000 exemption provided in 15-6-138, MCA, the taxpayer must notify the department and complete a personal property statement/reporting form for the applicable tax year; or

(b) remains the same.

(12) New businesses are not required to submit a personal property statement/reporting form if the entity's business equipment is valued at \$100,000 or less than or equal to the exemption provided in 15-6-138, MCA, unless requested by the department in accordance with (11).

(13) remains the same.

AUTH: 15-1-201, 15-9-101, MCA

IMP: 15-1-121, 15-1-123, 15-1-303, 15-6-138, 15-6-201, 15-6-202, 15-6-203, 15-6-206, 15-6-213, 15-6-215, 15-6-217, 15-6-218, 15-6-219, 15-6-220, 15-6-225, 15-6-228, 15-8-104, 15-8-301, 15-8-303, 15-8-309, 15-9-101, 15-24-3001, MCA

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity, the department proposes to implement HB 303 by amending

ARM 42.21.158 and striking (8)(c) and (8)(d) and consolidating (8)(a) and (8)(b). The net effect is the implementation of the legislation, and it clarifies the department's statewide market value aggregation process for class eight property.

42.22.1311 INDUSTRIAL MACHINERY AND EQUIPMENT TREND FACTORS (1) remains the same.

(2) The department shall post its trend factor tables for industrial machinery and equipment for the upcoming tax year on the department's internet website located at <http://www.mtrevenue.gov>. The department adopts and incorporates by reference its ~~2024~~ 2022 Personal Property Depreciation Schedules and Trend Tables publication, effective January 1, ~~2024~~ 2022. The Depreciation Schedules and Trend Tables publication contains the detailed schedules and tables the department uses for valuing personal property and industrial machinery and equipment.

(3) remains the same.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-8-111, MCA

5. The department proposes to repeal the following rule:

42.21.125 BUSINESS EQUIPMENT

AUTH: 15-1-201, MCA

IMP: 15-6-202, MCA

REASON: In addition to the general statement of reasonable necessity, the department proposes the repeal of ARM 42.21.125 to remove unnecessary redundancies which are already provided in 15-6-202, MCA, ARM 42.21.154 and 42.21.159. For instance, (1) is obsolete. Further, the department no longer requires a lessee to report the business equipment they rent; that is an obligation of the lessor. Section (6) is obsolete based on the passage of House Bill 52 (2021) (HB 52), which changed the quarterly reporting requirement to annual for all farm implement and construction equipment in a purchase incentive rental program. The last sentence in (6) is redundant as it is also provided in ARM 42.21.159(4)(b).

6. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail todd.olson@mt.gov and must be received no later than 5:00 p.m., November 8, 2021.

7. Todd Olson, Department of Revenue, Director's Office, has been designated to preside over and conduct the hearing.

8. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in number 6 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

9. An electronic copy of this notice is available on the department's web site at www.mtrevenue.gov, or through the Secretary of State's web site at sosmt.gov/ARM/register.

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor, Representative Kassmier, was contacted by email on September 18, 2021 and September 27, 2021.

11. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment and repeal of the above-referenced rules may significantly and directly impact small businesses. However, the extent of any potential impact is fact-dependent on the circumstances of the taxpayer, and is not quantifiable by the department. With regard to the amendment of ARM 42.21.158, any significant and direct small businesses impact is attributable to the department through the implementation of HB 303.

/s/ Todd Olson
Todd Olson
Rule Reviewer

/s/ Brendan Beatty
Brendan Beatty
Director of Revenue

Certified to the Secretary of State September 28, 2021.