

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 42.15.314 and 42.23.303) PROPOSED AMENDMENT
pertaining to adopting the Multistate)
Tax Commission's Model Statute for)
Reporting Adjustments to Federal)
Taxable Income and Federal)
Partnership Audit Adjustments)

TO: All Concerned Persons

1. On August 15, 2022, at 12:00 p.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 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 July 29, 2022. 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. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

42.15.314 CHANGES IN FEDERAL TAXABLE INCOME (1) When a taxpayer's federal taxable income is changed or corrected by the IRS, or other authority, the taxpayer must file an amended return within ~~90~~ 180 days after ~~receiving notice from the IRS~~ the final determination date.

(2) When a taxpayer changes his or her own federal taxable income by amending his or her federal income tax return, the taxpayer must file an amended return reporting these changes within ~~90~~ 180 days after filing the federal amended tax return.

(3) remains the same.

AUTH: 15-30-2620, 15-30-3404, MCA

IMP: 15-1-216, 15-30-2605, 15-30-2606, 15-30-2619, 15-30-3403, MCA

42.23.303 CHANGE IN FEDERAL TAX OR RETURN (1) Taxpayers are required to report to the department adjustments or corrections to their taxable income made by the IRS or other competent authority by filing an amended Montana corporate income tax return within ~~90~~ 180 days ~~after receiving official notice of such~~

~~change or correction of the final determination date.~~ If the adjustments or corrections result in an overpayment of tax, the refund claim must be made within the statute of limitation set forth in 15-31-509, MCA.

(a) If the taxpayer files an amended Montana corporate income tax return or a federal adjustments report more than ~~90~~ 180 days after ~~receiving official notice the final determination date~~ and has not by written agreement suspended the federal statute of limitations, the period within which a deficiency in tax may be assessed extends for three years from the date the changes or corrections in the taxpayer's federal taxable income become final and are filed with the department or three years from the date the amended federal return was filed.

(b) If the taxpayer fails to file an amended Montana corporate income tax return or a federal adjustments report ~~after receiving official notice~~, the department may at any time assess tax or begin a proceeding in court for the collection of the tax without assessment pursuant to 15-31-544, MCA.

(2) If a taxpayer files an amended federal income tax return for any year changing or correcting its taxable income, the taxpayer is required to file a corresponding amended Montana corporate income tax return within ~~90~~ 180 days after filing the amended federal return. If the adjustments or corrections result in an overpayment of tax, the refund claim must be made within the statute of limitations set forth in 15-31-509, MCA.

(a) If the taxpayer files an amended Montana corporate income tax return or a federal adjustments report more than ~~90~~ 180 days after filing the amended federal return and has not by written agreement suspended the federal statute of limitations, the period within which a deficiency in tax may be assessed extends for three years from the date the amended Montana return is filed.

(b) If the taxpayer fails to file an amended Montana corporate income tax return or a federal adjustments report, the department may at any time assess tax or begin a proceeding in court for the collection of the tax without assessment pursuant to 15-31-544, MCA.

(3) and (4) remain the same.

AUTH: 15-31-501, MCA

IMP: 15-30-3401, 15-31-506, 15-31-509, 15-31-544, MCA

REASONABLE NECESSITY: The 67th Montana Legislature enacted House Bill 53 (HB 53) which adopted the Multistate Tax Commission's Model Statute for Reporting Adjustments to Federal Taxable Income and Federal Partnership Audit Adjustments and created new statutes which were codified in Title 15, chapter 30, part 34, Montana Code Annotated.

Based on the passage of HB 53, it is necessary for the department to propose amendments to ARM 42.15.314 and 42.23.303 to implement the new reporting requirements, as identified in HB 53. The department also proposes some minor text edits for clarity and for consistency with current department rule writing styles. Finally, the department proposes to amend the statutory citations corresponding to the rule as required by 2-4-305(3), MCA.

4. 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., August 22, 2022.

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

6. 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 4 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.

7. 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.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor, Representative Hamilton, was contacted by email on April 26, 2022, and again on July 11, 2022.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Todd Olson
Todd Olson
Rule Reviewer

/s/ Brendan Beatty
Brendan Beatty
Director of Revenue

Certified to the Secretary of State July 12, 2022.