

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 42.15.804 and 42.15.806 and ) PROPOSED AMENDMENT AND  
the repeal of ARM 42.15.808 ) REPEAL  
pertaining to Montana Education )  
Savings Plans (529 plans) )

TO: All Concerned Persons

1. On August 26, 2022, at 12:30 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 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 August 12, 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. GENERAL STATEMENT OF REASONABLE NECESSITY. The 67th Montana Legislature enacted House Bill 129 (2021) (HB 129) which, among other things, links Montana Education Savings Plans (529 plans) to federal law enacted under the Tax Cuts and Jobs Act of 2017. HB 129 exempts income deposited into a qualified 529 plan from Montana income tax.

The department proposes to amend and repeal the above-stated rules, as applicable, which is necessary to implement HB 129. The amendment to ARM 42.15.804(3) reflects the HB 129 amendment to 15-62-208(5), MCA. The amendment to ARM 42.15.806 reflects the HB 129 expansion of qualified educational expenses to more than just higher education.

The department also proposes the repeal of ARM 42.15.808 as a part of the Governor's Red Tape Relief Initiative because the rule is unnecessarily redundant to 15-30-2110, MCA, which expressly provides for the treatment of income tax deductions for 529 plan contributions in other states.

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

42.15.804 VERIFICATION OF FAMILY EDUCATION SAVINGS PROGRAM ACCOUNT CONTRIBUTIONS AND WITHDRAWALS (1) and (2) remain the same.

(3) A program manager shall report a withdrawal as an early withdrawal if the withdrawal is made within ~~three years~~ one year of the date that the account was

opened.

(4) through (7) remain the same.

AUTH: 15-30-2620, 15-62-201, MCA

IMP: 15-30-2110, 15-62-201, 15-62-208, MCA

42.15.806 TAXATION OF FAMILY EDUCATION SAVINGS PROGRAM

ACCOUNT EARNINGS (1) Earnings on family education savings program accounts are not included in Montana adjusted gross income when earned. The earnings will be included in Montana adjusted gross income when distributed to the extent they are not used to pay for qualified higher education expenses.

AUTH: 15-30-2620, 15-62-201, MCA

IMP: 15-30-2110, MCA

5. The department proposes to repeal the following rule:

42.15.808 DEDUCTIONS FOR CONTRIBUTIONS TO OTHER STATES' 529 PLANS

AUTH: 15-30-2620, MCA

IMP: 15-30-2110, 15-62-207, MCA

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](mailto:todd.olson@mt.gov) and must be received no later than 5:00 p.m., September 6, 2022.

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](http://www.mtrevenue.gov), or through the Secretary of State's web site at [sosmt.gov/ARM/register](http://sosmt.gov/ARM/register).

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor of HB 129, Representative Bedey, was contacted by email on April 25, 2022 and July 21, 2022.

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 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 26, 2022.