

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 42.26.311 and the repeal of) PROPOSED AMENDMENT AND
ARM 42.26.306 pertaining to Tax) REPEAL
Haven Corporation Water's Edge)
Filing Requirements to Implement)
Senate Bill 246 (2023))

TO: All Concerned Persons

1. On May 21, 2024, 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 May 3, 2024. 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 rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

42.26.311 CERTAIN CORPORATIONS INCLUDABLE IN A WATER'S-EDGE COMBINED RETURN (1) through (4) remain the same.
~~(5) A corporation that is in a unitary relationship with the taxpayer and that is incorporated in a tax haven is included in a water's edge return.~~

AUTH: 15-31-501, MCA
IMP: 15-31-322, MCA

4. The department proposes to repeal the following rule:

42.26.306 APPLICABILITY

AUTH: 15-31-501, MCA
IMP: 15-31-322, MCA

REASONABLE NECESSITY: The 68th Montana Legislature enacted Senate Bill 246 (SB 246). SB 246 amended 15-31-322(1)(f), MCA, to eliminate the required inclusion of income and apportionment factors from corporations in a unitary

relationship with the taxpayer incorporated in a tax haven in a water's edge return. Based on the enactment, it is necessary for the department to strike ARM 42.26.311(5) and to repeal ARM 42.26.306, since they are now obsolete.

5. 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., May 28, 2024.

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

7. 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 5 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.

8. 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.

9. The bill sponsor contact requirements of 2-4-302, MCA, have been fulfilled. The primary bill sponsor of SB 246, Senator Daniel Zolnikov, was contacted by email on November 14, 2023, and on April 15, 2024.

10. 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 April 16, 2024.