

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 42.20.105 pertaining to the ) PROPOSED AMENDMENT  
valuation of condominiums or )  
townhomes )

TO: All Concerned Persons

1. On September 4, 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 of the above-stated rule. 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 16, 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:

42.20.105 VALUATION OF CONDOMINIUMS/OR TOWNHOMES (1) ~~It is the intention of the department to employ~~ The department will apply an appraisal methodology for condominiums or and townhouse/townhomes, (as defined in 70-23-102, MCA), ~~which is consistent in accordance with 15-8-111 and 15-8-511, MCA.~~ The terms "townhouse" and "townhome" are interchangeable and, therefore, reference to one term incorporates the other term. The methodology which must provide for a separate assessment of each condominium/ or townhome unit, and allocation of the percentage interest of common elements must meet the market value standard. The methodology must include the consideration, use, and where applicable, the reconciliation of the cost approach, the sales comparison approach, and the income approach to valuation using accepted appraisal treatises and manuals. This rule relates solely to the administration of revenue laws, and nothing in this rule should be construed to affect the legal requirements of any other purpose.

(2) ~~The department will employ the following appraisal and assessment methodology for condominiums/townhomes, except for condominiums/townhomes situated on qualified tax-exempt community land trust property, as set forth in (6), and time-share condominiums, as set forth in (7).~~

(a) ~~The preferred approach for the appraisal of residential condominium/townhome units is~~ The sales comparison approach; is used where

~~when comparable sales are available. and T~~the common elements of residential condominiums/townhomes are inherent included in the individual unit values when the sales comparison approach is employed. When comparable sales are not available, the cost approach must be used. In that instance, the condominium/townhome declaration's percentage of ownership interest required by 15-8-511, 70-23-301, and 70-23-403, MCA, should be used to allocate the value. Allocation of value for each condominium/townhome unit will be determined by multiplying the percentage, expressed as a decimal, by the appraised value of the entire condominium/townhome project or by adding the individual unit cost to the individual unit's allocation of those elements deemed common. The common elements are deemed to be inherent in the individual unit's declaration percentage when the cost approach to value is determined and allocated as specified in this subsection.

~~(b) (3) The preferred income approach for the appraisal of is used to value commercial condominium units is the income approach where when reliable condominium income and expense data are is available. and T~~the common elements of income-producing commercial condominiums are inherent included in the individual unit values when the income approach is employed. When reliable income and expense data are is not available, the cost approach must or sales comparison approach may be used. In that instance, the condominium declaration's percentage of ownership interest required by 15-8-511, 70-23-301, and 70-23-403, MCA, should be used to allocate the value. Allocation of value for each condominium/townhome unit will be determined by multiplying the percentage, expressed as a decimal, by the appraised value of the entire condominium/townhome project. The common elements are deemed to be inherent in the individual unit's declaration percentage when the cost approach to value is determined and allocated as specified in this subsection.

(4) When the cost approach is used to value residential and commercial condominiums, the department will value each unit individually and allocate the value of common area elements to the units based on the percentage of undivided interest in the condominium declaration, as required by 15-8-111(5)(c), MCA.

(5) When the cost approach is used to value townhomes with common area elements, the department will value each unit individually and allocate the value of common area elements to the units based on the percentage of undivided interest in the recorded townhome declaration, if one was filed.

(6) The total appraised value of time-share condominiums in a complex will be calculated and assessed to the owner of record (i.e., the time-share association).

~~(3) (7) Unit owners seeking conversion from a classification change from condominium property type to a townhome property type will require changing must change the legal ownership of the land for the entire complex, on which the unit is located. Therefore, all unit owners of the complex shall acknowledge, consent, and attest to the validity of the property type and the classification change must be ratified by the unit owners in accordance with the unit ownership association entity's governing documents.~~

(4) (a) The unit ownership association or unit owner's designated entity must file an application for a property type change on a form available from the local department office submit a Request for Townhome Classification form located at

<http://www.mtrevenue.gov> on or before January 1 of the year for which the property change is sought classification change is requested. Applications received after January 1 will be considered for the following tax year. For tax year 2012 only, the deadline is October 1.

~~(5) (b) In addition to the Request for Townhome Classification form, the~~ department requires the following additional information before changing a property type classification from a condominium to a townhome:

~~(a) (i) a description of the size in square footage or acreage of land associated with each townhome unit;~~

~~(b) (ii) the amount of remaining square footage or acreage of land associated with each townhome unit; and~~

~~(iii) signed copies of all resolutions, meeting minutes, or other entity governance documents that evidence unit owner ratification of the classification change.~~

~~(c) if a designated entity, documentation authorizing the designated entity to represent the unit owners; and~~

~~(d) signatures of all unit owners of the complex in which the property type change is located.~~

~~(6) The department will appraise and assess condominiums/townhomes situated on qualified tax-exempt community land trust property using the cost approach method. The cost approach method is appropriate in this situation because it utilizes national cost service manuals and does not factor in the land.~~

~~(7) The department will employ the following appraisal and assessment methodology for time-share condominiums.~~

~~(a) The entire condominium project will be appraised using accepted appraisal techniques or methods and, as appropriate, the cost replacement manuals identified in rule. The use of accepted techniques or methods means the consideration, use, and where applicable, the reconciliation of the cost approach, the sales comparison approach, and the income approach to valuation.~~

~~(b) Any units in a condominium project that are not owned and operated as time-share condominium units will be valued pursuant to the methodology set forth in (2)(a) or (b).~~

~~(c) The total appraised value for all time-share condominium units comprising a condominium project will be calculated and assessed to the owner of record (time-share association). Thereafter, it will be incumbent upon the association to allocate its total tax liability among the various parties having interest in the time-share condominiums.~~

AUTH: 15-1-201, MCA

IMP: 15-7-103, 15-8-111, 15-8-511, 70-23-102, 70-23-103, 70-23-301, 70-23-403, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.20.105 for the primary purpose of implementing House Bill 685 (2023) (HB 685). HB 685 amended 15-8-111(5)(c), MCA, and changes how the department values residential and commercial condominiums and townhomes when the cost approach to value is used.

The prior version of 15-8-111(5)(c), MCA, required the department to value individual residential and commercial condominium and townhome units based on a percentage of the total condominium complex's appraised value. Under HB 685 amendments to 15-8-111(5), MCA, the department now values residential and commercial condominiums on an individual basis and allocates the value of the common area elements to the units based on the percentage of undivided interest in the condominium declaration. The department proposes new (4) and (5) as a necessary reiteration of the valuation requirement into the rule.

The department also notes that ARM 42.20.105 was originally written, and subsequently amended, in a manner that was not clear and concise which caused occasional procedural confusion about its subject matter. Therefore, in addition to the legislative implementation of HB 685, the department proposes numerous amendments to simplify the rule; remove unnecessary words, phrases, and obsolete dates; update form submission references and deadlines; and clarify department procedures and/or requirements. The foregoing reflects the continuation of the department's work to advance Governor Gianforte's Red Tape Relief Initiative. Finally, rule section renumbering is proposed, as necessary, to reflect the proposals in this rulemaking.

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](mailto:todd.olson@mt.gov) and must be received no later than 5:00 p.m., September 11, 2024.

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

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor of House Bill 685, Representative Bertoglio was contacted by email on July 16, 2024 and on July 26, 2024.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule 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 30, 2024.