



Revenue and Transportation Interim Committee

65th Montana Legislature

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TO: Committee Members

FROM: Jaret Coles, Staff Attorney

RE: Administrative Rule Activity

DATE: June 27, 2018

Department of Revenue

Proposal and Adoption Notices are available on the Internet:

Department of Revenue notices can be found on the Secretary of State's website at <http://www.mtrules.org/>. Under the Montana Administrative Register heading, type the number "42" in the "Search by Notice No." box and click on the "Go" icon.

Notice of Proposed Rules:

Deduction Provided Under IRC 199A -- Not Allowed for the Determination of Montana Net Income. MAR 42-2-995. A public hearing will be held on July 23, 2018, at 1:30 p.m. in the Third Floor Reception Conference Room, Mitchell Building, Helena. The public comment period ends on August 6, 2018. The Department proposes to adopt one new rule regarding the Department's determination that the deduction provided under Internal Revenue Code (IRC) Section 199A is not allowed for the computation of Montana personal net income. This new federal provision was implemented as a part of the Tax Cuts and Jobs Act, effective for taxable years beginning after December 31, 2017. According to the Department's statement of reasonable necessity, the rule is necessary because the deduction was placed under IRC Section 63 as a standalone reduction of federal taxable income and was not intended to impact states that use federal adjusted gross income as a starting point for calculating state individual income tax.

Note: On January 11, 2018, Legislative staff provided a legal opinion in response to a Legislative information request regarding this topic. Legislative staff concluded that reasonable grounds exist for a court to conclude that the newly enacted section 199A deduction is not available as a Montana itemized deduction. In other words, the proposed new rule conforms to this opinion.

Notice of Adopted Rules:

Oil and Gas Tax Rates. MAR 42-2-993. Adopted June 12, 2018. No members of the public appeared at the hearing and no written comments were received. The Department amended two rules as proposed. One of the amendments corrects a reference to a subchapter instead of the full chapter. The other amendment adds a second tax rate table to reflect tax rate changes that were enacted by the Montana Board of Oil and Gas Conservation effective on or after October 1, 2016. The changes amount to a .04 percent increase over the rates shown in the previous table that were in effect through September 30, 2016.

Department of Transportation

Proposal and Adoption Notices are available on the Internet:

Department of Transportation notices can be found on the Secretary of State's website at <http://www.mtrules.org/>. Under the Montana Administrative Register heading, type the number "18" in the "Search by Notice No." box and click on the "Go" icon.

Notice of Proposed Rules:

Electronic Submission of Transportation Construction Bids. MAR 18-171. No public hearing is contemplated and the Department of Transportation proposes to amend three rules and repeal four rules. The proposed amendments (1) eliminate definitions of terms that are no longer used throughout the administrative rules while adding a definition for electronic bid submission, and (2) implement a mandatory electronic bid submission process for all construction bids within the Department's Engineering Division while providing an exception for a small number of contracts through special provisions. The proposed repeals are based on a Department of Transportation finding that the rules are comprised of outdated, archaic language that is no longer used.

Right-of-Way Occupancy by Water and Sewer Facilities. MAR 18-170. No public hearing is contemplated and the Department of Transportation proposes to amend two rules. The proposed amendments alphabetize current definitions, update a website address, update a cross reference, and amend the definition of "Utility" to include publicly owned water and sewer facilities such as municipal, county, or consolidated city and county water and sewer districts, in accordance with the new statutory language found in section [60-4-402](#), MCA.

Motor Carrier Services Safety Requirements. MAR 18-169. No public hearing is contemplated and the Department of Transportation proposes to amend three rules. The proposed amendments adopt the most current published Federal Motor Carrier Safety Regulations, the published version of the federal hazardous materials regulations, and the most current CVSA (Commercial Vehicle Safety Alliance) North American Uniform "Out-of-Service" criteria.

Notice of Adopted Rules:

Motor Carrier Services Safety Requirements. [MAR 18-168](#). Adopted May 15, 2018. No members of the public appeared at the hearing and no written comments were received. The Department of Transportation amended two rules as proposed. The amendments restored the definitions of "farm vehicle" and "farmer" to definitions that were used last year.

Outdoor Advertising Control. [MAR 18-167](#). Adopted May 1, 2018. No public hearing was held, public comment was received, and the Transportation Commission amended one rule regarding community welcome signs along MDT-controlled routes which serve as entry points into those areas. The amendments require the local government to obtain a specific "welcome to" sign permit which will allow placement of welcome to signs.

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