



GOVERNOR GREG GIANFORTE
DIRECTOR BRENDAN BEATTY

MEMORANDUM

TO: Revenue Interim Committee

FROM: David R. Stewart, Chief Legal Counsel *DRS*

DATE: September 8, 2025

SUBJECT: Department of Revenue Major Case Update

MONTANA SUPREME COURT

Boardwalk Properties, Inc./Michael Delaney and Ileana Indreland v. State of Montana and Montana Department of Revenue: In June 2021, Boardwalk Properties sued the department in the Eighteenth Judicial District Court, Gallatin County, challenging the 2021 statutory amendments to § 16-4-213, MCA, governing resort area all-beverages licenses, specifically that accommodation units may not be located within the boundaries of a quota area in order to qualify toward the required total for the potential issuance of additional resort retail all-beverages licenses (House Bill 705 (2021)). The lawsuit asserted that the amended statute violates both the state and federal constitutions (retrospective legislation, equal protection, due process, and takings). Discovery closed in March 2024, both parties filed cross-motions for summary judgment, and oral argument was held on August 21, 2024.

On June 18, 2025, the Court granted summary judgment in favor of the department and the department filed its proposed entry of final judgment for the Court's consideration. On July 24, 2025, Boardwalk Properties appealed to the Montana Supreme Court. The parties are currently engaged in the Supreme Court's mandatory mediation process.

National Order of Cowboy Rangers (NOCR) v. MDOR: The department denied NOCR's application for an all-alcoholic beverage license as a non-profit, nationally chartered fraternal organization following a protest hearing, where the department's Office of Dispute Resolution (ODR) determined NORC failed to meet eligibility or suitability criteria as a nationally chartered fraternal organization that existed for five or more years prior to January 1, 1949, under § 16-4-201(8)(b), MCA. Pursuant to § 2-4-702(2)(a), MCA, the deadline for NOCR to file a petition for judicial review ran on November 20, 2024. NOCR did not petition until January 13, 2025, and asserted equity principles and good cause for its delayed filing.

On May 7, 2025, the Thirteenth Judicial District Court, Yellowstone County, granted the department's motion to dismiss NOCR's petition for judicial review as untimely. On May 21, 2025, NOCR appealed to the Montana Supreme Court and its opening brief was filed on July 21, 2025. The department's response brief is currently due to the Montana Supreme Court on September 20, 2025.

STATE DISTRICT COURT

Order of Chosen Friends v. MDOR; Order of Chosen Friends, Lodge 3 v. MDOR; Order of Chosen Friends, Lodge 3, d/b/a Arete Group, LLC v. MDOR. Similar to the NOCR case (above), the department's ODR denied the Plaintiffs/Petitioners' applications following a protest hearing, determining that they failed to meet eligibility or suitability criteria as a nationally chartered fraternal organization that existed for five or more years prior to January 1, 1949, under § 16-4-201(8)(b), MCA. Plaintiffs/Petitioners petitioned the Thirteenth Judicial District Court, Yellowstone County, for judicial review of the department's denial of their alcoholic beverage license applications as a non-profit, nationally chartered fraternal organization. Plaintiffs/Petitioners subsequently moved to dismiss the department and seek to litigate against the protesters. The motion has been briefed, and the parties await the court's decision.

Thomas Powers and Cindra Lord-Powers and Ryan Swenson and Elizabeth Swenson, et al. v. State of Montana and Department of Revenue: On October 21, 2024, Mr. and Mrs. Powers and Mr. and Mrs. Swenson, as Plaintiffs, filed suit in Butte-Silver Bow County against the State of Montana and the department alleging that the "state" and the department have failed to equalize and adjust all taxable property in the state as required by Article VIII, Section 3 of the Montana Constitution and §15-9-101, MCA. The suit requests the Court (1) certify the matter as a class action suit; (2) issue declaratory judgment(s) under the Uniform Declaratory Judgment Act (UDJA) on various legal theories; and (3) grant supplemental relief to Plaintiffs, including attorneys' fees and costs. The department filed a motion to dismiss on the basis that the suit was filed under the incorrect declaratory judgment authority, and the issue has been fully briefed. The parties await the court's decision.

MONTANA TAX APPEAL BOARD

Billings Generation, Inc., Orndorff, Roberts, and Smith: The taxpayers appealed the department's assessments for tax year 2020 to MTAB on April 4, 2024. Taxpayers then filed a Petition for Interlocutory Adjudication in the First Judicial District Court. Following briefing, the Court granted the department's Motion to Dismiss, concluding the taxpayers had failed to raise a justiciable issue. Taxpayers filed a Motion for Summary Judgment on August 29, 2025; the Department's response is due September 12, 2025. The MTAB hearing is scheduled for October 7-9, 2025.

Calumet Montana Refining, LLC: Calumet appealed the Cascade County Tax Appeal Board's (CTAB) November 13, 2023, decision upholding the department's 2023 valuation to MTAB. On May 17, 2024, Calumet also appealed the CTAB's April 29, 2024, decision upholding the department's revised 2022 valuation. Calumet subsequently appealed the department's 2024 valuation and moved for MTAB to consolidate the 2022, 2023 and 2024 matters. The matters have been consolidated, and a hearing has been scheduled for May 4-15, 2026.

Phillips 66 Company (P66): The department appealed the Yellowstone County Tax Appeal Board (YCTAB) decision regarding the 2024 valuation of the Billings P66 refinery on March 21, 2025. Discovery is pending. The MTAB has scheduled a hearing on the matter for January 12-15, 2026.

BANKRUPTCY COURT

None to Report

SETTLEMENTS

None to Report

END