

At the meeting of the Public Service Commission of the State of Montana held at the Commission's Offices in Helena, Montana, on October 6, 2015, the following members were present:

Brad Johnson, Chairman  
Travis Kavulla, Vice Chairman  
Kirk Bushman, Commissioner  
Roger Koopman, Commissioner  
Bob Lake, Commissioner

APPEARANCE

Aleisha Solem, Commission Secretary

(260) In the matter of the approval of Commission Minutes for the week of September 28, 2015.

Commissioner Kavulla moved to APPROVE the Commission Minutes for the week of September 28, 2015. Commissioner Lake seconded the motion, which passed unanimously.

APPEARANCE

Brenda Koch, Transportation Unit

(261) In the matter of T-15.43.COC: Billings Yellow Cab LLC's application for a certificate of compliance.

Commissioner Bushman moved to GRANT the certificate of compliance. Commissioner Kavulla seconded the motion, which passed unanimously.

APPEARANCE

Nickie Eck, Transportation Unit

(262) In the matter of T-15.44.COC: Carrie Ann Pintar dba Amazing Adventures' application for a certificate of compliance.

Commissioner Koopman moved to GRANT the certificate of compliance. Commissioner Lake seconded the motion, which passed unanimously.

APPEARANCE

Brenda Koch, Transportation Unit

(263) In the matter of T-15.45.ST: G&G Garbage, Inc.'s application to transfer PSC No. 9452 to G & G Garbage LLC.

Commissioner Bushman moved to APPROVE the transfer off PSC No. 9452. Commissioner Kavulla seconded the motion, which passed unanimously.

APPEARANCE

Jeremiah Langston, Legal Division

(264) In the matter of D2015.4.34: Utility Solutions, LLC's application for approval to sell water and sewer system to the Four Corners Water and Sewer District.

Commissioner Koopman moved to GRANT the stipulation and APPROVE the final order. Commissioner Bushman seconded the motion, which passed unanimously.

There being no further business to come before the Commission the meeting was adjourned.

  
BRAD JOHNSON, Chairman

  
TRAVIS KAVULLA, Vice Chairman

  
KIRK BUSHMAN, Commissioner

  
ROGER KOOPMAN, Commissioner

  
BOB LAKE, Commissioner

ATTEST:



Aleisha Solem  
Commission Secretary

(SEAL)

**Part III – Property Owner Documentation to be Considered** (Complete this section if you are requesting an overall valuation change not related to physical characteristic changes to the property. See page 5 of instructions.) 15-7-102(3), MCA, ARM 42.20.454, ARM 42.20.455

Current Year Market/Productivity Value from Classification and Appraisal Notice (as of January 1, 2014*)	Value as Determined by Property Owner (your estimate of market/productivity value of land and improvements as of January 1, 2014*)
Land..... \$ _____	Land..... \$ _____
Improvements..... \$ _____	Improvements..... \$ _____
Personal Property..... \$ _____	Personal Property (as of Jan 1 of current year) . \$ _____
Total..... \$ _____	Total..... \$ _____

\*Montana law specifically requires all residential, commercial, agricultural and industrial property to be valued on the same date every two years to equally distribute the tax burdens among property owners across the state. January 1, 2014 is the valuation date for residential, commercial, agricultural and industrial property. Forest land property has the same valuation date, January 1, 2014, but has a six-year appraisal cycle (2015-2020).

**Do you have any of the following documentation?** If yes, check the boxes of all supporting documentation you have attached to this form including dates, purpose and details.

- Purchase price of subject property within six months of the January 1, 2014 valuation date.
- Fee Appraisal within six months of the January 1, 2014 valuation date.
- Comparable property sales/listings within six months of the January 1, 2014 valuation date.
- Building Remodel/Construction – Attach the builder’s cost breakdown worksheet.
- Income Producing Commercial or Industrial Property – Property owner must be prepared to present detailed information about the property, including rental income, operating expenses and income statements, and strategic plans/pro forma.

**Part IV – Appealing an Informal Classification and Appraisal Review** (See page 6 of instructions.)

After our review of your property, the department will mail a determination letter to the property owner in response to their request for an informal classification and appraisal review.

If any property owner feels aggrieved by the department’s decision regarding classification or valuation after the informal classification and appraisal review, the property owner has the right under 15-7-102(6), MCA to file an appeal with a county tax appeal board in the county where the property is located. County tax appeal board decisions may be appealed to the Montana Tax Appeal Board, whose decision may be appealed to district court.

**An appeal to a county tax appeal board must be filed within 30 days from the date of the department’s determination letter.**

Industrial property owners may appeal the department’s determination to the Montana Tax Appeal Board (MTAB) or to the county tax appeal board (CTAB) in the county where the property is located as provided in 15-2-302, MCA.

Property tax appeal forms and information about the appeal process are available at your local county clerk and recorder’s office or on the Montana Tax Appeal Board’s website at [mtab.mt.gov](http://mtab.mt.gov).

**Return this page if you are requesting a residential or commercial information packet or additional residential sales data.**

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**Part V – Request for an Information Packet** *15-7-102(3)(b), MCA* (See page 6 of instructions.)

For residential and commercial properties valued using the sales comparison, cost or income approach, an information packet is available from the Department of Revenue office shown on your classification and appraisal notice. The packet identifies the appraisal method and data used by the department to establish the property value. Information in the packet includes:

- A copy of the department's electronic property record card (PRC). The PRC identifies the information the department has on file for the owner's property.
- A photo and sketch, if available.
- A comparable sales sheet, if property was valued using the sales comparison approach.

**Check the appropriate box.**

- I do not want to receive an information packet.
- Email a copy of the information packet for the property identified in this filing to me.  
Email address \_\_\_\_\_
- Mail a copy of the information packet to the mailing address on the property record.
- Provide the information packet at the informal review meeting.

**Sales Information is Confidential**

If you request a copy of the information packet for the property identified in this filing, be aware that the information packet includes confidential sales information that may not be disclosed to others. (*15-7-102, MCA*) Your signature below in *Part VII – Confidentiality Agreement* is required and indicates your acknowledgement of the confidential nature of the sales information contained in the packet and your agreement to not disclose any of the sales information.

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**Part VI – Request for Additional Residential Sales Data** *15-7-102(3)(b), MCA* (See page 6 of instructions.)

For residential properties, additional sales data used by the department to value residential property in your market model area is available to you. The data consists of sales in your market model area listed by geocode number, sale price and sale date. A market-modeled area may include 40 to 3,000 sales. A geocode is a 17 digit number the department uses to identify each parcel in each county, township, portion of the township and range.

**Sales Information is Confidential**

If you request the additional sales data, be aware that the information includes confidential sales information that may not be disclosed to others. (*15-7-102, MCA*) Your signature below in *Part VII – Confidentiality Agreement* is required and indicates your acknowledgement of the confidential nature of the sales information provided and your agreement to not disclose any of the sales information.

**Check the appropriate box.**

- Do not want additional residential sales data
- Mail paper copy
- Mail USB drive (PDF format)

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**Part VII – Confidentiality Agreement** (See page 6 of instructions.)

If you are requesting a residential or commercial information packet or additional residential sales data, you must sign the confidentiality agreement below.

I agree, under penalty of law, that I will not reveal, to any person, except my agent/representative or attorney, any confidential information contained in the documents I receive from the department, except at a tax appeal board or court hearing on my appeal. I agree that I will not copy or disseminate the documents I receive, except for use in my tax appeal. I agree to abide by all procedures adopted by the department, a county tax appeal board, the Montana Tax Appeal Board, or any court regarding the nondisclosure of confidential information.

**X Property Owner Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

We will mail the requested information to the mailing address listed in Part I unless another address is provided below:

# Instructions for Submitting a Request for Informal Classification and Appraisal Review (Form AB-26)

## SECTION I. Required Information

### What if I do not agree with the value of my property?

If you do not agree with the department's determination of the classification or market value of your property, you have the right to request an informal classification and appraisal review and/or file a formal appeal to a county tax appeal board.

- **Request for Informal Classification and Appraisal Review (Form AB-26)** – The department conducts mass appraisal of all properties statewide. The informal review process allows the department to look at your property individually and allows you to provide documentation to support a different classification or value than determined by the department as shown on your classification and appraisal notice. The informal review process starts when you fill out a Form AB-26, available from your local Department of Revenue office or on our website at [revenue.mt.gov/property-forms](http://revenue.mt.gov/property-forms). *This form must be completed and returned to the Department of Revenue office shown on the classification and appraisal notice within 30 days from the date on the classification and appraisal notice.*
- **File an appeal to a county tax appeal board** – If you are not satisfied with the results of your informal review, or if you do not want to use the informal review process described above, you can appeal to a county tax appeal board. Appeal forms are available at your local county clerk and recorder's office, or on the Montana Tax Appeal Board's website at [mtab.mt.gov](http://mtab.mt.gov).

Appeals to a county tax appeal board must be filed within 30 days from the date on the classification and appraisal notice, or if you requested an informal review, within 30 days from the date on the department's determination letter.

County tax appeal board decisions may be appealed to the Montana Tax Appeal Board, whose decision may be appealed to a district court. Your appeal must be filed within 30 days of receiving a county tax appeal board's decision.

### Who may submit a Form AB-26 or file an appeal?

Any property owner who has received a classification and appraisal notice for residential, commercial, agricultural, industrial and forest land property and does not agree with the department's classification or valuation of their property and has additional documentation showing that the classification and/or valuation is incorrect, may file a Form AB-26. You may complete a Form AB-26 yourself or have a representative or attorney complete it for you. If you have a representative or an attorney complete and file a Form AB-26 for you, you and your representative or attorney must file a power of attorney form. If needed, the link for a power of attorney form is: [revenue.mt.gov/Portals/9/tax\\_professionals/POA.pdf](http://revenue.mt.gov/Portals/9/tax_professionals/POA.pdf).

Below is a detailed listing of the classes of property that a Form AB-26 may be submitted for:

- Class Three properties include agricultural land, one acre homestead on agricultural land, nonproductive patented mining claims, and nonqualified agricultural land.
- Class Four properties include residential, commercial and industrial land and improvements, including improvements on agricultural land; and one acre homestead on forest and nonqualified agricultural land, mobile homes, manufactured homes and golf courses.
- Class Eight properties include business equipment, machinery and all other property that is not included in any other class of property.
- Class Ten property is forestland.

You can only submit a Form AB-26 once per appraisal cycle. If the department adjusts your classification or property value or as a result of your Form AB-26 review, the adjustment will be effective beginning the year for which your Form AB-26 was filed. A separate Form AB-26 should be filed for each separately assessed parcel.

### Do I need to pay my taxes if I have a Form AB-26 review or appeal pending?

The law requires the property owner to pay the disputed taxes *under protest* to receive any refund and accrued interest. The protest must be filed with the county treasurer in writing, specifying the grounds for protest and the taxes must be paid by the due date.

## Payment of Property Taxes

Your property taxes are billed and collected by your local county treasurer. Please direct any questions regarding property tax billing and collection to them.

## Penalty for False Statements

A person making willful false statements on the Form AB-26 is subject to the penalties of false swearing set forth in 45-7-202, MCA.

## SECTION II. Instructions for Completing Form AB-26

### Part I – Required Information

Enter the required identifying information including the following:

- Person Filing this Form (if different than property owner) – your agent/representative or attorney may complete the form for you. Please attach a power of attorney form which can be found at: [revenue.mt.gov/Portals/9/tax\\_professionals/POA.pdf](http://revenue.mt.gov/Portals/9/tax_professionals/POA.pdf).
- County – county in which the property is located.
- Geocode – a 17 digit property identification number found on your classification and appraisal notice.
- Assessment Code – alpha numeric number found on your classification and appraisal notice.
- Home/Contact Phone – provide a daytime phone number.

### Part II – Request for a Review and Inspection

In the space provided, specify the reasons for requesting a property review. Examples of such reasons may include differences in square footage, bedroom/bath count, or other physical characteristic changes. Information on purchase price, comparable sales or a fee appraisal are also reasons for requesting an informal review. A reason stated such as *taxes too high* is not enough information for department staff to make a valuation decision.

If you want the department to conduct our review using only the information you included with your Form AB-26, check the appropriate box. If you would like to meet with a department representative in person, check that box. Include your daytime phone

number so the appraiser can contact you to make an appointment to inspect your property and get additional information. If department employees are denied access to your property, the property's appraised value will not be adjusted.

### Part III – Property Owner Documentation to Be Considered

If you believe the department has the physical characteristics of your property correctly identified, but you dispute the appraised value of the property, please complete this section.

Under the *Current Year Market/Productivity Value from Classification and Appraisal Notice* section, enter the dollar values for land, improvements, and personal property (if applicable) shown on your classification and appraisal notice in the Current Year Market/Productivity Value column.

On some classification and appraisal notices, land and improvement values are combined in the *Current Year Market/Productivity Value* column. Enter the combined value on either the land or improvements line.

In the section marked Value as Determined by Property Owner, enter your estimate of the market/productivity value of your land and improvements as of 01/01/2014. If applicable, your personal property dollar amount is valued as of January 1 of the current year, as required by law (personal property is reassessed every year).

Montana law specifically requires all residential, commercial, agricultural and industrial real property to be valued on the same date every two years to equally distribute the tax burdens among property owners across the state. January 1, 2014 is the valuation date for residential, commercial, agricultural and industrial property. Montana law requires all forest land to be valued every six years. January 1, 2014 is the valuation date for forest land property.

Attach all documentation to support the value you determine as of the valuation date.

The department's market/productivity value is presumed correct. The property owner has the burden to prove otherwise.

## **PART IV – Appealing an Informal Review**

Per 15-7-102(6), MCA, if a property owner feels aggrieved by the department's decision regarding classification, valuation or a denial of a benefit you have applied for after the informal review, the property owner has the right to file an appeal with a county tax appeal board (CTAB) in the county where the property is located.

If you choose to appeal the department's decision to CTAB, you must file your appeal within 30 days from the date on the department's determination letter mailed to you.

You may appeal your classification and appraisal notice directly to your local CTAB rather than first filing a Form AB-26. If you choose to appeal directly to the CTAB, your appeal must be submitted to the county clerk and recorder within 30 days from the date on the classification and appraisal notice. CTAB decisions may be appealed to the Montana Tax Appeal Board, whose decision may be appealed to district court.

Industrial property owners may appeal the department's determination to the Montana Tax Appeal Board (MTAB) or to the county tax appeal board (CTAB) in the county where the property is located as provided in 15-2-302, MCA.

Property tax appeal forms and information about the appeal process are available at your local county clerk and recorder's office or on the Montana Tax Appeal Board's website at [mtab.mt.gov](http://mtab.mt.gov).

## **Part V – Request for an Information Packet**

An information packet is available to you for properties valued using the sales comparison, cost or income approach. If you choose to receive an information packet, you must:

1. Check the appropriate box to receive your information packet by email, postal mail or at an informal review meeting.
  - If you want the packet emailed to you, please provide your email address.
  - If you want the packet mailed to you, the department will send your packet to the address you provided in Part I of this form unless another address is provided.
  - If you select to receive the packet in person, the appraiser will provide it at the property inspection appointment.

2. Be aware that the information provided includes confidential sales information that cannot be disclosed to others. The confidentiality agreement in Part VII must be completed.

## **PART VI – Request for Additional Residential Sales Data**

For residential properties, additional sales data used by the department to value residential property in your market model area is available to you. If you choose to receive additional residential sales data in your market model area, you must:

1. Check the appropriate box to receive the sales data as a paper copy or a USB drive.
2. Be aware that the information provided includes confidential sales information that cannot be disclosed to others. The confidentiality agreement in Part VII must be completed.

## **PART VII – Confidentiality Agreement**

If you requested an information packet or additional sales data, you must read the confidentiality agreement and sign and date the form.

Provide the mailing address you want information sent to if different than the mailing address provided in Part I.

The requested information will only be provided if you have signed the confidentiality agreement.

## **Additional Contact Information:**

You may find contact information for your local Department of Revenue office by visiting [revenue.mt.gov/contact-us](http://revenue.mt.gov/contact-us) or by calling toll free (866) 859-2254 (in Helena, 444-6900).



## Notice of Referral to the Office of Dispute Resolution

You may use this form to appeal the notice of determination made by the Department of Revenue's Business and Income Taxes Division. This division issues a notice of final determination after receiving a request for informal review of a tax adjustment. You need to file this form with the Office of Dispute Resolution within 15 days of the date on the notice of the division's final determination.

For more information about the appeal process, visit the tax appeal process section at [revenue.mt.gov](http://revenue.mt.gov). If you need additional help, call us toll-free at 1-866-859-2254 (in Helena 444-6900) Monday through Friday, 8 a.m. to 5 p.m.

### 1. Taxpayer Information

Name of Taxpayer(s) or Contact Person			SSN	<input style="width: 95%;" type="text"/>
Address			FEIN	<input style="width: 95%;" type="text"/>
City	State	Zip Code		
Spouse's Name (if joint liability)			Spouse's SSN	
Telephone Number	Fax Number	Email Address		
Tax Type(s)	For Tax Period(s)	Account ID		

### 2. Authorization of Representative

If you would like to have another individual represent you during your appeal to the Office of Dispute Resolution, please provide the basic information below and attach a completed Power of Attorney form. You can find the Power of Attorney form under *Forms* at [revenue.mt.gov](http://revenue.mt.gov) or call us toll-free at 1-866-859-2254 (444-6900 in Helena). Federal Form 2848 is also acceptable if the "Tax Matters" section identifies the Montana tax type, form number and years that the representative is authorized to discuss with the department.

Name of Representative	Telephone Number
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### 3. Basis for Objection

As required by law (and to avoid denial of your request), you need to provide a written explanation of the basis for your objection. Please attach a copy of your Request for Informal Review (Form APLS101F, or Form CAB-8 for a centrally assessed company) and/ or a detailed explanation for each disputed issue. Use the space below and additional sheets as necessary.

**Date of the Business and Income Taxes Division's Notice of Determination** \_\_\_\_\_

The following issues are the basis for objection:

Signature of Taxpayer or Authorized Representative	Title	Date
Spouse's Signature (if joint liability)	Date	

**Please mail this form to Montana Department of Revenue, PO Box 5805, Helena, MT 59604-5805 or email to [dordisputeresolution@mt.gov](mailto:dordisputeresolution@mt.gov).**

[HOME \(/HOME.ASPX\)](#)    [APPEAL PROCESS \(/HOME/TAXAPPEAL\\_PROCESS.ASPX\)](#)

## TAX APPEAL PROCESS

[About](#)    [Reference Guide](#)    [Forms](#)    [Other Information](#)    [FAQs](#)

### ABOUT THE TAX APPEAL PROCESS

Please note that this appeals process is in place for all tax types except for locally assessed property tax appeals. For information regarding the locally assessed property tax appeals process, please click here (</home/property/appeal-process.aspx>).

You have the right to appeal decisions that you disagree with, especially decisions about the taxes you owe or that you feel should be refunded. The appeals process is important and we encourage you to use it if you have an objection. Everyone should pay their share of taxes, no more and no less, and we need to be informed of our errors. You have several avenues to follow throughout the appeals process, which you can read about below or get more detail from the Tax Appeals - Reference Guide and Steps to Take

([/Portals/9/taxappeal\\_process/ReferenceGuide\\_TaxAppealProcess\\_revised\\_030315.pdf](/Portals/9/taxappeal_process/ReferenceGuide_TaxAppealProcess_revised_030315.pdf)).

#### INFORMAL REVIEW

This is the place to start. More than 90 percent of disagreements are settled with an informal review. If you disagree with a notice from us, you'll need to file a written objection within 30 days from the date of the first notice. For your convenience, you can download a form by clicking on the Forms tab above and downloading a form specifically designed for this purpose. The informal review is effective because a department supervisor reviews your case and the work of any employees involved. Specific instructions on how to request an informal review are located under the Reference Guide

([/Portals/9/taxappeal\\_process/ReferenceGuide\\_TaxAppealProcess\\_revised\\_030315.pdf](/Portals/9/taxappeal_process/ReferenceGuide_TaxAppealProcess_revised_030315.pdf)).

#### OFFICE OF DISPUTE RESOLUTION

If you disagree with the outcome of the informal review, the Office of Dispute Resolution is your next avenue. Nearly all of the remaining objections with the department are settled here. You need to file a written objection with the Office of Dispute Resolution within 15 days of the outcome of the informal review in step 1. There is a form specifically designed for this

step as well. Located under the Forms tab above.

The first part of this step is a scheduling conference, often held by telephone. After that, you may appear before a hearing officer who is independent of other department staff members. The decision from the Office of Dispute Resolution is considered the Department of Revenue's final decision. If you disagree with the decision, you may make your case to the appeal bodies outside the Department of Revenue. Read specific instructions in the Tax Appeals - Reference Guide and Steps to Take

(/Portals/9/taxappeal\_process/ReferenceGuide\_TaxAppealProcess\_revised\_030315.pdf) on how to file an appeal with the Office of Dispute Resolution.

### **STATE TAX APPEAL BOARD - DISTRICT COURT - MONTANA SUPREME COURT**

Steps three through five involve the State Tax Appeal Board, the District Court and the Montana Supreme Court. Taxpayers usually resolve disputes well before this stage and appeal very few decisions to these bodies. The State Tax Appeal Board guarantees your right to have your dispute weighed by a panel that is fully independent of the Department of Revenue, and is simpler and less expensive than going to court. Ultimately, you can appeal to the courts. This gives you the ability to have a judicial body determine whether the decision made by the Department of Revenue is fair and appropriate. (View additional information regarding the State Tax Appeals Board, the Montana District Court and the Montana Supreme Court.)

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# Reference Guide and Steps to Take

## Payment Options

If you decide not to dispute the assessment, but you do not believe that you have the financial ability to pay the assessment, you can call our Citizen Services Call Center toll free at (866) 859-2254. They will direct you to a representative with the Accounts Receivable and Collection Bureau to discuss payment options.

## Representation

You are not required to hire a lawyer or other tax representative in order to participate in an appeal before the Department of Revenue. You may represent yourself or you may have someone represent you at every stage of the Department's appeal proceedings. If you appeal beyond the Department of Revenue you will have to represent yourself or hire an attorney to represent you. CPAs or other representatives who are not attorneys are not allowed at the State Tax Appeal Board or in District Court.

Use **Form POA**- Power of Attorney, to authorize one or more individuals to represent you before the Department of Revenue. This authorization allows your representative(s) to receive and inspect confidential tax information and to act on your behalf in matters before the Department. This power of attorney does not change the requirement that Department send all official mailings directly to you, the taxpayer.

## Constitutional Issues

As an administrative agency, the Department of Revenue cannot decide constitutional issues. Constitutional issues are usually decided by a Montana district court, on appeal from a State Tax Appeal Board decision or, when exhaustion of administrative remedies is not required, in an original action filed in district court for that purpose. However, constitutional issues still should be raised in Department appeals. There are a number of reasons for this, including that the Department and hearing examiner should understand all of a taxpayer's concerns. Also, constitutional issues often involve mixed questions of fact and law, and an appeals court may find that a taxpayer has failed to exhaust administrative remedies if facts related to a constitutional challenge are not established in the administrative proceedings.

## Appeals

If you disagree with a notice of assessment, notice of proposed disallowance of a claim for refund, or other determination or decision by the Department of Revenue, you may file a written appeal. We will work with you to resolve any outstanding issues, but cannot disregard Montana tax laws in order to settle a dispute.

## Step One – Informal Review:

If you object to your notice of assessment, refund reduction, or other determination or decision, you may appeal by requesting an Informal Review by the Department's Business and Income Taxes Division.

### How do you file an objection to request an informal review?

- Your **objection must be in writing** and filed within **30 days of the date** on the notice of the action that you are challenging. If you do not file an objection within 30 days, we will consider it to be your admission that you agree with the adjustment. For your convenience, **Form APLS101F – Request for Informal Review**, is available for you to complete and file your objection. Email your objection to [soaobjections@mt.gov](mailto:soaobjections@mt.gov) or mail the objection and documentation to: Montana Department of Revenue, PO Box 7149, Helena MT 59604-7149.
  - Whether you use Form APLS101F or send a separate written objection, any written objection should clearly state all of the following:
    - Your name and address;
    - Your Montana Account Number;
    - Your Social Security Number or Federal Employer Identification Number ;
    - Tax type, i.e. individual income tax, withholding tax, etc.;
    - Taxable period or periods in dispute;
    - A statement that you are appealing the notice of assessment, refund reduction, or other determination or decision; and
    - A factual statement for each disputed issue that supports your position.
- If you are requesting a waiver of penalties and/or interest, all of the following apply:
  - You need to establish reasonable cause for the waiver. Please see the discussion and rule on **reasonable cause**.
  - Reasonable cause for waiver of the late payment penalty automatically exists if you:
    - Pay all tax and interest due, and
    - Request the waiver in writing **within 30 days** of the date of your notice of an amount due.
    - If you meet both of these qualifications, please check the "Request for Waiver of Late Payment Penalty Only" box on Form APLS101F.
  - There is a \$100 limit per taxable period on the amount of interest that can be waived.

### **What happens after you file your objection with the Department?**

- The Business and Income Taxes Division will review your objection and determine whether it agrees or disagrees with your concerns. The Division will mail notice of determination to you advising you of the Division's determination within 30 days after receipt of your objection. If the Division fails to meet this deadline, the taxpayer may immediately refer the matter to the Office of Dispute Resolution.
- A unit manager or tax specialist will conduct the review. The auditor who issued the assessment may provide information but will not make the determination on behalf of the Business and Income Taxes Division.

**If the issue cannot be resolved at the division level, you may appeal to the Office of Dispute Resolution (see Step Two).**

### **Important Items to Note**

- **Interest and penalties will continue to accrue**, as applicable, **until the total tax due is paid in full**, even if you file a written objection or appeal. Please consider paying the total amount due, which will stop additional interest and penalties from accruing. Making a payment will not waive your appeal rights.
- **Once you submit a timely appeal/objection, if you wish to provide additional information** for the Department to consider during the Informal Review, you may request an informal review meeting. To allow this meeting and a review of the additional information to take place, the Department may need to extend the time it takes to issue its Informal Review determination.

### **Step Two – Office of Dispute Resolution (ODR):**

Consistent with most federal and state agencies, the Department of Revenue retains an independent adjudicatory office, called the Office of Dispute Resolution. Its purpose is to render fair, objective, and unbiased decisions in tax disputes free from agency influence or direction. The Hearing Examiner assigned to the office is not subject to performance ratings, promotions, demotions, or compensation based upon the number of times she or he decides in favor of the agency or the taxpayer. Along with all other agency hearing examiners, she or he assumes a unique status in state government. It is the Hearing Examiner's responsibility to render decisions based upon the record and evidence of each case. The decisions are expected to fully explain why one party or another prevails in any given dispute. The administrative rules pertaining to the Office of Dispute Resolution are **ARM 42.2.613 through 42.2.621**.

### **How can you file an appeal with the ODR?**

- Your appeal **must be in writing** and filed within **15 days of the date on the notice of determination** regarding your informal review that you received from the Business and Income Taxes Division, as outlined in Step One above. If you do not file an objection within 15 days, the Department will consider this an admission that you agree with the

adjustment. For your convenience, an optional **Form APLS102F** – Notice of Referral to the Office of Dispute Resolution, is available for you to complete and file your appeal. Email the appeal and documentation to [soaobjections@mt.gov](mailto:soaobjections@mt.gov) or mail to: Montana Department of Revenue, PO Box 7701, Helena, MT 59604-7701.

- Whether you use Form APLS102F or send a separate written appeal, any written appeal should clearly state all of the following:
  - Your name and address;
  - Your Montana Account Number;
  - Your Social Security Number or Federal Employer Identification Number;
  - Tax type, i.e. individual income tax, withholding tax, etc.;
  - Taxable period or periods in dispute;
  - A statement that you are appealing the notice of determination made by the Business and Income Taxes Division as a result of their informal review;
  - A factual statement for each disputed issue that supports your position. This may be accomplished by attaching a copy of the Form APLS101F initially submitted to the Business and Income Taxes Division and/or by completing the "Basis for Objection" section on the Form APLS102F.

## **What happens after you file your appeal with the ODR?**

### **1) Scheduling Conference**

In any matter before the Department of Revenue, you or your representative will be required to appear before the Office of Dispute Resolution in person, or by telephone, for a scheduling conference (identified as an "initial conference" in the applicable administrative rules). An order setting such a conference will be issued after an appeal is filed with the ODR. Conferences are held for the purposes of scheduling hearing and other relevant dates, clarifying issues, discussing evidence, reviewing the possibility of mediation, and expediting the proceedings in any way satisfactory to both parties. An order is issued from each conference confirming what was discussed and agreed upon, including a hearing, a decision on the record, or a mediation date.

### **2) Hearings**

The Hearing Examiner has the discretionary authority to determine the level of formality in tax hearings. Every effort is made to make such proceedings as least intimidating and inexpensive as possible for taxpayers. While taxpayers may be represented by a lawyer, accountant, or tax practitioner, such representation is entirely up to them. Individual taxpayers have often represented themselves very successfully. If both parties are represented by lawyers, and if larger amounts of liability are involved, applying rules of evidence and civil procedure may be warranted. Testimony at hearings is taken under oath. The parties can introduce evidence, and cross-examine opposing parties or witnesses on any testimony or evidence offered. By law, such hearings are either conducted in Helena or by telephone. All hearings are recorded, and a copy of the recording will be provided if requested.

Any ultimate tax decision issued from the Office of Dispute Resolution is a final agency decision. The Office of Dispute Resolution's decision may be appealed to the State Tax Appeal Board, as outlined in **Step Three**.

### **3) Mediation Process**

The Office of Dispute Resolution can also mediate disputes if both parties agree, and are both willing to make movement indicating that a mediated settlement is feasible. The parties may also agree to select a mediator outside the Office of Dispute Resolution, but must pay for the mediator.

The mediation process is intended to allow the parties to meet with a mediator who will facilitate the discussion. During this process, the parties can discuss all of the evidence that is available to that point and, with the assistance of the mediator, work toward a satisfactory settlement that may resolve the issues pending on appeal. If the parties settle and execute a settlement agreement, they are bound by the agreement.

**If you do not agree with the decision issued by the Office of Dispute Resolution, you may appeal to the State Tax Appeal Board (see Step Three).**

### **Step Three – State Tax Appeal Board (STAB):**

The State Tax Appeal Board is a three member independent review board, separate from the Department of Revenue. Members are appointed by the Governor for six-year terms.

An appeal to the State Tax Appeal Board must be made within **30 days** of a final department decision (see **Step Two**). When making such an appeal to this board, please be sure to include a copy of the final department decision and a copy of the hearing examiner's findings of fact and conclusions of law, if any. The complaint itself can be in the form of a letter containing a brief statement of the issue.

The board will issue a written decision after hearing the appeal. Either you or the Department may seek judicial review. Judicial review must be sought within 60 days of the date of the decision of the State Tax Appeal Board.

If you appeal beyond the Department of Revenue you will have to represent yourself or hire an attorney. No non-attorney representation is allowed at the State Tax Appeal Board or in District Court. A corporation is an entity and generally must have qualified representation.

You can learn more about the State Tax Appeal Board by visiting their **website**.

**If you do not agree with the decision issued by the State Tax Appeal Board, you may appeal to the Montana District Court (see Step Four).**

### **Step Four – Montana District Court:**

For information about the Montana District Court system, please visit their **website**.

**If you do not agree with the decision that the Montana District Court issues, you may appeal to the Montana Supreme Court (see Step Five).**

### **Step Five – Montana Supreme Court:**

For information about the Montana Supreme Court, please visit their [website](#).