

HOUSE BILL NO. 733

INTRODUCED BY G. HERTZ

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TEMPORARY EXEMPTION FOR CERTAIN TRIBAL PROPERTY; PROVIDING FOR RECAPTURE OF TAXES IF THE TRUST APPLICATION IS DENIED OR NOT APPROVED WITHIN 5 YEARS; PROVIDING THAT A COUNTY MAY REQUEST THAT THE STATE TAX APPEAL BOARD REVIEW THE DECISION TO GRANT A TEMPORARY EXEMPTION FOR TRIBAL PROPERTY; AMENDING SECTIONS 15-2-302 AND 15-6-230, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 15-2-302, MCA, is amended to read:

**"15-2-302. Direct appeal from department decision to state tax appeal board -- hearing.** (1) (a) An appeal of a final decision of the department of revenue involving one of the matters provided for in subsection (1)(b) must be made to the state tax appeal board.

(b) Final decisions of the department for which appeals are provided in subsection (1)(a) are final decisions involving:

- (i) property centrally assessed under chapter 23;
- (ii) classification of property as new industrial property;
- (iii) any other tax, other than the property tax, imposed under this title; or

(iv) a county's request for review of an exemption granted by the department of revenue pursuant to 15-6-230; or

~~(iv)~~(v) any other matter in which the appeal is provided by law.

(2) A person may appeal the department's annual assessment of an industrial property to the state board as provided in this section or to the county tax appeal board for the county in which the property is located as provided in Title 15, chapter 15, part 1.

(3) The appeal is made by filing a complaint with the state board within 30 days following receipt of notice of the department's final decision. The complaint must set forth the grounds for relief and the nature of relief demanded. The state board shall immediately transmit a copy of the complaint to the department.



1 (4) The department shall file with the state board an answer within 30 days following filing of a complaint.

2 (5) The state board shall conduct the appeal in accordance with the contested case provisions of the  
3 Montana Administrative Procedure Act. Parties to an appeal shall attempt to attain the objectives of discovery  
4 through informal consultation or communication before utilizing formal discovery procedures. Formal discovery  
5 procedures may not be utilized by a taxpayer or the department unless reasonable informal efforts to obtain the  
6 needed information have not been successful.

7 (6) The decision of the state board is final and binding upon all interested parties unless reversed or  
8 modified by judicial review. Proceedings for judicial review of a decision of the state board under this section are  
9 subject to the provisions of 15-2-303 and the Montana Administrative Procedure Act to the extent that it does not  
10 conflict with 15-2-303."

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12 **Section 2.** Section 15-6-230, MCA, is amended to read:

13 **"15-6-230. Temporary exemption for certain tribal property -- recapture -- rulemaking.** (1) Subject  
14 to subsection (2), property owned in fee by a federally recognized Indian tribe located within the boundaries of  
15 the state of Montana is temporarily exempt from taxation on January 1 after the following conditions are met:

16 (a) the United States department of the interior, bureau of Indian affairs, has determined that the initial  
17 written request or trust application submitted by the tribe is complete; and

18 (b) the tribe has submitted a timely property tax exemption application to the department and the  
19 department has approved the tribe's exemption application.

20 (2) The temporary exemption applies only for the timeframe during which a decision on the trust  
21 application is officially pending before the United States department of interior, bureau of Indian affairs, but the  
22 exemption may not exceed a period of 5 years and ceases earlier if the United States denies the trust application.

23 (3) For tax years following the department's approval of the exemption, the tribe shall annually certify  
24 to the department that the trust application is still under consideration by the United States department of interior,  
25 bureau of Indian affairs, and has not been denied. The exemption applies only for tax years for which the  
26 department has received a timely certification from the affected tribe. The department shall provide the annual  
27 certification to the county in which the property is located.

28 (4) If a trust application has been denied, the temporary exemption expires on December 31 of the year  
29 in which the trust application was denied. The temporary exemption is no longer available for property associated  
30 with a trust application that has been denied.

1 (5) (a) Property for which a trust application is denied or for which the 5-year exemption period expires  
 2 and the trust application remains pending before the United States department of interior is subject to a recapture  
 3 of property taxes. The recaptured tax is equal to the tax that would have been assessed using the tax rates, the  
 4 mill levies, and the appraised value for each year in which the property was exempt under this section. The  
 5 department shall collect taxes subject to recapture.

6 (b) The department shall continue to appraise property granted an exemption under this section until a  
 7 trust application is approved by the United States department of interior. The appraised value is only for use for  
 8 the purposes of calculating the recapture provided for in this section and may not be included in the taxable value  
 9 provided to taxing jurisdictions.

10 ~~(5)(6)~~ If the United States takes tribally owned property out of trust, the property is subject to tax as  
 11 otherwise provided by federal and state law.

12 (7) Upon approval of an exemption pursuant to this section, the department shall provide the approved  
 13 application to the county in which the property is located. As provided in 15-2-302, the county may request that  
 14 the state tax appeal board review an exemption granted by the department pursuant to this section. The request  
 15 for review may be made at any time the exemption is in effect, and 15-2-302(3) does not apply.

16 ~~(6)(8)~~ The department may adopt rules to implement the provisions of this section."  
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18 NEW SECTION. Section 3. Notification to tribal governments. The secretary of state shall send a  
 19 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell  
 20 Chippewa tribe.

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 22 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

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 24 NEW SECTION. Section 5. Applicability. [This act] applies to exemptions granted after [the effective  
 25 date of this act].

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