

1 SENATE BILL NO. 449

2 INTRODUCED BY D. EMRICH, B. USHER, D. BARTEL, C. FRIEDEL, C. GLIMM, J. TREBAS, F.

3 MANDEVILLE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING COLLECTION OF TAXES; PROVIDING A
6 ~~2-YEAR STATUTE OF LIMITATIONS ON COLLECTION OF TAXES ADMINISTERED BY VARIOUS~~
7 ~~AGENCIES THE DEPARTMENT OF REVENUE; PROVIDING THE REVISED STATUTE OF LIMITATIONS~~
8 ~~DOES NOT APPLY TO PROPERTY TAXES; PROVIDING A WARRANT FOR DISTRAINT IS SUBJECT TO~~
9 ~~THE STATUTE OF LIMITATIONS ON COLLECTION; REVISING THE TIMEFRAME TO FILE A WARRANT~~
10 ~~FOR DISTRAINT; PROVIDING FOR A WRITE OFF OF A DELINQUENT TAX DEFICIENCY AFTER A~~
11 ~~PERIOD OF TIME; PROVIDING A DEFINITION; AMENDING SECTIONS 15-1-207, 15-1-701, 15-1-704, 15-1-~~
12 ~~708, AND 15-30-2629, 15-31-543, 15-35-114, 15-36-321, 15-37-106, 15-37-109, 15-37-116, 15-37-212, 15-38-~~
13 ~~112, 15-39-106, 15-50-304, 15-51-114, 15-53-150, 15-59-114, 15-64-106, 15-68-516, 15-70-110, 15-70-417,~~
14 ~~AND 15-72-113, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."~~

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17
18 NEW SECTION. Section 1. ~~Statute of limitation~~ LIMITATION on collection -- TIME TO FILE WARRANT
19 FOR DISTRAINT -- DEFINITION. (1) Except in the case of a fraudulent return or of neglect or refusal to make a
20 return, ~~every tax deficiency in this title must be collected~~ A WARRANT FOR DISTRAINT PROVIDED FOR IN 15-1-704
21 MUST BE FILED within 2 5 years of the due date of the return or the date of filing the return or within 2 5 years of
22 the date of the assessment, whichever is later.

23 (2) ON THE FILING OF A WARRANT FOR DISTRAINT PROVIDED FOR IN 15-1-704, THE DEPARTMENT MAY
24 COLLECT ON A TAX DEFICIENCY PURSUANT TO TITLE 15, CHAPTER 1, PART 7.

25 (3) SUBJECT TO SUBSECTION (4), UPON EXPIRATION OF THE TIME PROVIDED IN SUBSECTION (1) TO FILE A
26 WARRANT FOR DISTRAINT, OR THE EXPIRATION OF A WARRANT FOR DISTRAINT, WHICHEVER IS LATER, THE DEPARTMENT
27 SHALL WRITE OFF ANY REMAINING TAX DEFICIENCY AS PROVIDED IN 15-1-207.

28 (4) THE DEPARTMENT MAY CONTINUE TO DIRECT THE OFFSET OF TAX REFUNDS OR OTHER FUNDS DUE THE

1 TAXPAYER FROM THE STATE UNTIL THE UNPAID BALANCE OF THE TAX DEFICIENCY IS PAID IN FULL, EVEN AFTER THE
2 LIMITATIONS ON COLLECTION PROVIDED IN THIS SECTION HAVE BEEN MET.

3 (5) THE LEGISLATURE INTENDS THAT THE DEPARTMENT USE EXISTING RESOURCES TO IMPLEMENT THE
4 PROVISIONS OF THIS SECTION.

5 (6) For the purpose of this section, "tax deficiency" means the amount of unpaid tax plus
6 accumulated penalty, if any, and accumulated interest. The term does not include past due property taxes if a
7 lien can be filed on the property with a tax liability, taxes that have not been assessed, or tax collection
8 enforcement actions that are stayed because of a court action, an agreement with the state, or by law.

9
10 **Section 2.** Section 15-1-207, MCA, is amended to read:

11 **"15-1-207. Writeoff of collection of tax, penalty, or interest -- rules.** (1) ~~The Subject to [section 1],~~
12 ~~the THE~~ department of revenue may write off the collection of any tax, penalty, or interest due to the state under
13 this title when the department determines that it is not cost-effective for the department to attempt to collect the
14 tax, penalty, or interest. The department shall establish procedures to determine the cost-effectiveness of
15 collecting the tax, penalty, or interest. If the department writes off the collection of any tax, penalty, or interest,
16 the department shall place in the taxpayer's file a written justification for the writeoff that includes a
17 determination that attempted collection is not cost-effective.

18 (2) SUBJECT TO [SECTION 1(4)], THE DEPARTMENT SHALL WRITE OFF THE COLLECTION OF ANY TAX
19 DEFICIENCY AS DEFINED IN [SECTION 1] WHEN THE LIMITATION ON COLLECTION IN [SECTION 1] HAS BEEN MET.

20 (3) The department shall prescribe rules to establish the procedures to carry out the purposes of
21 this section."

22
23 **Section 3.** Section 15-1-701, MCA, is amended to read:

24 **"15-1-701. Warrant for distraint.** (1) A warrant for distraint is an order, under the official seal of the
25 department or of the department of transportation, directed to a sheriff of a county of Montana or to an agent
26 authorized by law to collect a tax. The order commands the recipient to levy upon and sell the real and personal
27 property of a delinquent taxpayer.

28 (2) Upon filing the warrant as provided in 15-1-704, there is a lien against all real and personal

1 property of the delinquent taxpayer located in the county where the warrant is filed. The resulting lien is treated
2 in the same manner as a properly docketed judgment lien, the department is a judgment lien creditor, and the
3 department may collect delinquent taxes and enforce the tax lien in the same manner as a judgment is
4 enforced, except that the department may enforce the judgment lien at any time within ~~40 years of~~ 5 YEARS OF
5 its creation or effective date, whichever is later, ~~until the delinquent taxes are no longer collectible pursuant to~~
6 ~~[section 1]~~.

7 (3) A warrant may be issued for the amount of unpaid tax plus accumulated penalty, if any, and
8 accumulated interest. The lien is for the amount indicated on the warrant plus accrued penalty and interest from
9 the date of the warrant. The priority date of the tax lien created by filing the warrant for distraint is the date the
10 tax was due as indicated on the warrant for distraint.

11 (4) The accelerated priority date provided for in subsection (3) is not valid against purchasers,
12 holders of security interests, judgment lien creditors, and those lienholders identified in Title 71, chapter 3, parts
13 3 through 15, whose interest is recorded prior to the filing of the warrant for distraint."
14

15 **Section 4.** Section 15-1-704, MCA, is amended to read:

16 **"15-1-704. Filing with district court.** (1) After issuing a warrant, the department may file the warrant
17 with the clerk of a district court. The clerk shall file the warrant in the judgment docket, with the name of the
18 taxpayer listed as the judgment debtor. ~~A warrant is subject to the limitations on collection in [section 1].~~

19 (2) ~~A~~ ~~Subject to the limitations of [section 1], a~~ A copy of the filed warrant may be sent by the
20 department to the sheriff or agent authorized to collect the tax.

21 (3) A judgment lien filed pursuant to this section may be renewed for another ~~40-year~~ 5-YEAR
22 period, upon motion, or by judgment for that purpose founded upon supplemental pleadings."
23

24 **Section 5.** Section 15-1-708, MCA, is amended to read:

25 **"15-1-708. Release of lien.** (1) Upon payment in full of the unpaid tax plus accumulated penalty, if
26 any, and accumulated interest, ~~or the expiration of the statute of limitations~~ WHEN THE LIMITATION ON COLLECTION
27 provided for in [section 1] HAS BEEN MET, the department shall release the lien acquired by filing the warrant for
28 distraint.

1 (2) Upon partial payment or whenever the department determines that a release or partial release
2 of the lien will facilitate the collection of the unpaid tax, penalty, and interest, the department may release or
3 may partially release the lien acquired by filing the warrant for distraint. The department may release the lien if it
4 determines that the lien is unenforceable.

5 (3) (a) After making all reasonable efforts to collect unpaid taxes, penalties, and interest on the
6 taxes and penalties, the department may determine a debt to be uncollectible. Upon determining that a debt is
7 uncollectible, the department may proceed as provided in 17-4-104.

8 (b) Reasonable fees or costs of collection incurred by the department may be added to the amount
9 of the debt, including added fees or costs. The debtor is liable for repayment of the amount of the debt plus fees
10 or costs added pursuant to this subsection. All money collected must be applied to the debt, except that all fees
11 or costs collected must be retained by the department. If less than the full amount of the debt is collected, the
12 department shall retain only a proportionate share of the collection fees or costs."
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14 **Section 6.** Section 15-30-2629, MCA, is amended to read:

15 **"15-30-2629. Authority to collect tax -- offset -- hearing.** (1) ~~The~~ Subject to [section 1], the
16 department shall collect taxes that are delinquent as determined under this chapter.

17 (2) To collect delinquent taxes after the time for appeal has expired, the department may direct the
18 offset of tax refunds or other funds due the taxpayer from the state, except wages subject to the provisions of
19 25-13-614 and retirement benefits.

20 (3) As provided in 15-1-705, the taxpayer has the right to a hearing on the tax liability prior to any
21 offset by the department.

22 (4) The department may file a claim for state funds on behalf of the taxpayer if a claim is required
23 before funds are available for offset.

24 (5) The department shall provide the taxpayer with notice of the uniform dispute review available
25 under 15-1-211 for disputing the offset of funds for collection of delinquent taxes. A request for hearing must be
26 made within 30 days of the date of the notice."
27

28 ~~**Section 7.** Section 15-31-543, MCA, is amended to read:~~

1 ~~"15-31-543. Forfeiture of right to engage in business -- penalties. (1) A corporation that purposely~~
2 ~~fails to file a return at the time specified in 15-31-502 or that purposely files a false or fraudulent return may be~~
3 ~~adjudged by a court of competent jurisdiction to forfeit the right to continue to engage in business in the state as~~
4 ~~a corporation until the corporate income tax, together with all penalties, interest, and costs, is paid. The~~
5 ~~forfeiture may be enforced by proper proceedings in court.~~

6 ~~(2) — Each officer or employee of any corporation or other person who, without fraudulent intent, fails~~
7 ~~to file, sign, or verify any return or to supply any information within the time required by the provisions of this~~
8 ~~chapter is liable for the penalty imposed by 15-1-216 . The Subject to [section 1], the department shall assess~~
9 ~~and collect any penalty in the same manner as is provided in this chapter with regard to delinquent taxes. "~~

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11 **Section 8.** Section 15-35-114, MCA, is amended to read:

12 ~~"15-35-114. Statute of limitations. (1) Except as otherwise provided in [section 1] and this section,~~
13 ~~no deficiency may be assessed or collected with respect to the year for which a return is filed unless the notice~~
14 ~~of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the~~
15 ~~purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last~~
16 ~~day. If the taxpayer, before the expiration of the period prescribed for assessment of the tax, consents in writing~~
17 ~~to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period~~
18 ~~agreed upon.~~

19 ~~(2) — No refund or credit may be allowed or paid with respect to the year for which a return is filed~~
20 ~~after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment,~~
21 ~~whichever period expires later, unless before the expiration of the period the taxpayer files a claim therefor or~~
22 ~~the department of revenue has determined the existence of the overpayment and has approved the refund or~~
23 ~~credit thereof. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time~~
24 ~~within which the department may propose an additional assessment, the period within which a claim for refund~~
25 ~~or credit may be filed or a credit or refund allowed if no claim is filed is automatically extended.~~

26 ~~(3) — If a return is required to be filed and the taxpayer fails to file the return, the tax may be~~
27 ~~assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the~~
28 ~~taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery~~

1 of the fraud by the department."

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3 **Section 9.** Section ~~15-36-321~~, MCA, is amended to read:

4 **"~~15-36-321. Statute of limitations.~~** (1) ~~Except as otherwise provided in section 1 and this section, a~~
5 ~~deficiency may not be assessed with respect to the year for which a return is filed unless the notice of additional~~
6 ~~tax proposed to be assessed is mailed within 5 years from the date on which the return was filed. For the~~
7 ~~purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last~~
8 ~~day. If the taxpayer, before the expiration of the period prescribed for assessment of the tax, consents in writing~~
9 ~~to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period~~
10 ~~agreed upon.~~

11 (2) ~~— A refund or credit may not be allowed or paid with respect to the year for which a return is filed~~
12 ~~after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment,~~
13 ~~whichever period is later, unless before the expiration of the period, the taxpayer files a claim or the department~~
14 ~~of revenue has determined the existence of the overpayment and has approved the refund or credit. If the~~
15 ~~taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within which the~~
16 ~~department may propose an additional assessment, the period within which a claim for refund or credit may be~~
17 ~~filed or a credit or refund allowed if a claim is not filed is automatically extended.~~

18 (3) ~~— If a return is required to be filed and the taxpayer fails to file the return, the tax may be~~
19 ~~assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the~~
20 ~~taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery~~
21 ~~of the fraud by the department."~~

22

23 **Section 10.** Section ~~15-37-106~~, MCA, is amended to read:

24 **"~~15-37-106. Procedure in case of failure to file statements.~~** If a person fails to file the required
25 ~~statement of gross yield for a reporting period on or before the date the tax becomes delinquent under 15-37-~~
26 ~~108, the department shall, immediately after the time has expired, determine as nearly as may be possible from~~
27 ~~any returns or reports filed with any state or county officer or board under any law of this state and from any~~
28 ~~other information that the department may be able to obtain the total gross value of product of the person from~~

1 the business during the reporting period for which the license tax is to be paid. The department shall file a
2 statement showing the amount of the gross value of product and shall determine and assess the amount of the
3 license taxes due from the person. The department shall, as soon as possible, give notice to the person in the
4 same manner as though the statement had been filed within time. The Subject to [section 1], the department
5 shall collect the license tax, along with penalty and interest as provided in 15-1-216 . "

6

7 **Section 11.** Section 15-37-109, MCA, is amended to read:

8 **"15-37-109. False or erroneous statements -- investigation penalty and interest.** (1) When the
9 department determines that any statement and return is false or erroneous, it may require a person or the
10 officers or the employees of the person, to testify concerning the statement and return and may examine all
11 books, records, papers, and documents of the person, pertaining to the business, upon giving 5 days' written
12 notice to the person or officers or employees having custody of the books, records, papers, and documents. A
13 person who fails to appear or who refuses to be sworn, to testify, or to answer any material question
14 propounded by the department or who refuses to permit the department to examine the books, records, papers,
15 or documents pertaining to the business is considered guilty of a misdemeanor and upon conviction shall be
16 punished by a fine of not more than \$1,000 or by imprisonment in the county jail for not more than 6 months or
17 by both fine and imprisonment. If the department, after hearing the evidence and after the examination of the
18 books, papers, documents, and records of the person, finds that the statement and return are erroneous or
19 false in any material matter, the department shall correct the return to show the true gross value of product and
20 shall reassess the amount of the license tax due from the person and may add to the tax a penalty of not more
21 than 50% and shall immediately mail to the person a written notice of the corrections made to the statement
22 and return and the amount of the license tax and penalty due and payable.

23 (2) ~~The Subject to [section 1], the department shall collect the license tax with penalty added, and~~
24 ~~if the tax has become delinquent, it shall also collect interest as provided in 15-1-216 .~~ In order to verify the
25 statement and return, the department may require any person engaged in the business of smelting, milling,
26 reduction, or treatment of ores extracted or produced from any mine or mining property in the state to appear
27 before the department and testify concerning the gross mineral content of any ore or at the request of the
28 department to furnish sworn statements showing the gross yield of the ores, mineral products, or deposits in

1 constituents of commercial value including the number of ounces of gold or silver, pounds of copper, lead, or
2 zinc, or other commercially valuable constituents of the ores or mineral products or deposits, measured by
3 standard units of measurement, during the period covered by the statement, without any deductions for
4 smelting, milling, reduction, or treatment of the ores or mineral product.

5 (3) — The books, records, papers, and documents of the person engaged in the business of
6 smelting, milling, reduction, or treatment in any manner of ores extracted or produced by any mine or mining
7 property in the state must be open to inspection and examination by the department at any time or place that
8 the department may designate.

9 (4) — If a person required by this part to file a return or to verify, under oath, any statement on the
10 return makes a false statement in any material respect or verifies, under oath, any false statement or fails to file
11 any statement required by the department or refuses to appear before the department to testify concerning the
12 gross mineral content of any ore or refuses to allow the department at any time or place to inspect or examine
13 the books, records, papers, and documents of the person engaged in the business of smelting, milling,
14 reduction, or treatment of ores extracted or produced by any mine or mining property in the state, the person is
15 considered guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000 or by
16 imprisonment in the county jail for not more than 6 months or by both a fine and imprisonment."

17

18 **Section 12.** Section 15-37-116, MCA, is amended to read:

19 **"15-37-116. Statute of limitations.** (1) Except as otherwise provided in section 1 and this section,
20 no deficiency may be assessed or collected with respect to the year for which a return is filed unless the notice
21 of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the
22 purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last
23 day. If the taxpayer, before the expiration of the period prescribed for assessment of the tax, consents in writing
24 to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period
25 agreed upon.

26 (2) — No refund or credit may be allowed or paid with respect to the year for which a return is filed
27 after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment,
28 whichever period expires later, unless before the expiration of the period the taxpayer files a claim therefor or

1 the department of revenue has determined the existence of the overpayment and has approved the refund or
2 credit thereof. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time
3 within which the department may propose an additional assessment, the period within which a claim for refund
4 or credit may be filed or a credit or refund allowed if no claim is filed is automatically extended.

5 (3) — If a return is required to be filed and the taxpayer fails to file the return, the tax may be
6 assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the
7 taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery
8 of the fraud by the department."

9

10 **Section 13.** Section 15-37-212, MCA, is amended to read:

11 "**15-37-212. Statute of limitations.** (1) Except as otherwise provided in section 1 and this section,
12 no deficiency may be assessed or collected with respect to the year for which a return is filed unless the notice
13 of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the
14 purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last
15 day. If the taxpayer, before the expiration of the period prescribed for assessment of the tax, consents in writing
16 to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period
17 agreed upon.

18 (2) — No refund or credit may be allowed or paid with respect to the year for which a return is filed
19 after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment,
20 whichever period expires later, unless before the expiration of the period the taxpayer files a claim therefor or
21 the department of revenue has determined the existence of the overpayment and has approved the refund or
22 credit thereof. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time
23 within which the department may propose an additional assessment, the period within which a claim for refund
24 or credit may be filed or a credit or refund allowed if no claim is filed is automatically extended.

25 (3) — If a return is required to be filed and the taxpayer fails to file the return, the tax may be
26 assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the
27 taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery
28 of the fraud by the department."

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Section 14. Section 15-38-112, MCA, is amended to read:

~~"15-38-112. Statute of limitations. (1) Except as otherwise provided in Section 1 and this section, no deficiency may be assessed or collected with respect to the year for which a return is filed unless the notice of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last day. If the taxpayer, before the expiration of the period prescribed for assessment of the tax, consents in writing to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period agreed upon.~~

~~(2) — No refund or credit may be allowed or paid with respect to the year for which a return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period the taxpayer files a claim therefor or the department of revenue has determined the existence of the overpayment and has approved the refund or credit thereof. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed or a credit or refund allowed if no claim is filed is automatically extended.~~

~~(3) — If a return is required to be filed and the taxpayer fails to file the return, the tax may be assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery of the fraud by the department."~~

Section 15. Section 15-39-106, MCA, is amended to read:

~~"15-39-106. Authority to collect delinquent taxes. (1) (a) The Subject to Section 1, the department shall collect taxes that are delinquent as determined under this part.~~

~~(b) — If a tax imposed by this part or any portion of the tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.~~

~~(2) — In addition to any other remedy, in order to collect delinquent taxes after the time for appeal has expired, the department may direct the offset of tax refunds or other funds that are due to the taxpayer from~~

1 the state, except wages subject to the provisions of 25-13-614 and retirement benefits.

2 (3) — As provided in 15-1-705, the taxpayer has the right to a review on the tax liability prior to any
3 offset by the department.

4 (4) — The department may file a claim for state funds on behalf of the taxpayer if a claim is required
5 before funds are available for offset."

6

7 **Section 16.** Section 15-50-304, MCA, is amended to read:

8 **"15-50-304. Statute of limitations.** (1) Except as otherwise provided in [section 1] and this section,
9 no deficiency may be assessed or collected with respect to the year for which a public contractor's gross
10 receipts tax return is filed unless the notice of additional tax proposed to be assessed is mailed within 5 years
11 from the date the return was filed. For the purposes of this section, a return filed before the last day prescribed
12 for filing is considered filed on the last day. If the taxpayer, before the expiration of the 5-year period, consents
13 in writing to an assessment after that time, the tax may be assessed at any time prior to the expiration of the
14 period agreed upon.

15 (2) — No refund or credit may be allowed or paid with respect to the year for which a return is filed
16 after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment,
17 whichever period expires later, unless before the expiration of the period the taxpayer files a claim therefor or
18 the department of revenue determines the existence of the overpayment and approves the refund or credit
19 thereof. If the taxpayer agrees in writing under the provisions of subsection (1) to extend the time within which
20 the department may propose an additional assessment, the period within which a claim for refund or credit may
21 be filed or a credit or refund allowed if no claim is filed is automatically extended.

22 (3) — If a return is required to be filed and the taxpayer fails to file the return, the tax may be
23 assessed or an action to collect the tax may be brought at any time. If the return is required to be filed and the
24 taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery
25 by the department of the fraud."

26

27 **Section 17.** Section 15-51-114, MCA, is amended to read:

28 **"15-51-114. Statute of limitations.** (1) Except as otherwise provided in [section 1] and this section,

1 no deficiency may be assessed or collected with respect to the year for which a return is filed unless the notice
2 of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the
3 purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last
4 day. If the taxpayer, before the expiration of the period prescribed for assessment of the tax, consents in writing
5 to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period
6 agreed upon.

7 (2) — No refund or credit may be allowed or paid with respect to the year for which a return is filed
8 after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment,
9 whichever period expires later, unless before the expiration of the period the taxpayer files a claim therefor or
10 the department of revenue has determined the existence of the overpayment and has approved the refund or
11 credit thereof. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time
12 within which the department may propose an additional assessment, the period within which a claim for refund
13 or credit may be filed or a credit or refund allowed if no claim is filed is automatically extended.

14 (3) — If a return is required to be filed and the taxpayer fails to file the return, the tax may be
15 assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the
16 taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery
17 of the fraud by the department."

18

19 **Section 18.** Section 15-53-150, MCA, is amended to read:

20 "**15-53-150. Statute of limitations.** (1) Except as otherwise provided in [section 1] and this section, a
21 deficiency may not be assessed or collected with respect to the year for which a return is filed unless a notice of
22 additional tax proposed to be assessed is mailed within 5 years from the date on which the return was filed. For
23 the purposes of this section, a return filed before the last day prescribed for filing is considered filed on the last
24 day. If the taxpayer, before the expiration of the period prescribed for the assessment of the tax, consents in
25 writing to an assessment after that time, the tax may be assessed at any time prior to the expiration of the
26 period agreed upon.

27 (2) — A refund or credit may not be allowed or paid with respect to the year for which a return is filed
28 after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment,

1 ~~whichever period expires later, unless before the expiration of the period, the taxpayer files a claim for refund or~~
2 ~~the department has determined the existence of the overpayment and has approved the refund or credit of the~~
3 ~~overpayment. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time~~
4 ~~within which the department may propose an additional assessment, the period within which a claim for refund~~
5 ~~or credit may be filed or a refund or credit allowed if a claim is not filed is automatically extended.~~

6 ~~(3) — If a return is required to be filed and the taxpayer fails to file the return, the tax may be~~
7 ~~assessed or an action to collect the tax may be brought at any time. If the return is required and the taxpayer~~
8 ~~files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery of the~~
9 ~~fraud by the department."~~

10

11 **Section 19.** ~~Section 15-59-114, MCA, is amended to read:~~

12 ~~"15-59-114. Statute of limitations. (1) Except as otherwise provided in section 1 and this section,~~
13 ~~no deficiency may be assessed or collected with respect to the year for which a return is filed unless the notice~~
14 ~~of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the~~
15 ~~purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last~~
16 ~~day. If the taxpayer, before the expiration of the period prescribed for assessment of the tax, consents in writing~~
17 ~~to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period~~
18 ~~agreed upon.~~

19 ~~(2) — No refund or credit may be allowed or paid with respect to the year for which a return is filed~~
20 ~~after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment,~~
21 ~~whichever period expires later, unless before the expiration of the period the taxpayer files a claim therefor or~~
22 ~~the department of revenue has determined the existence of the overpayment and has approved the refund or~~
23 ~~credit thereof. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time~~
24 ~~within which the department may propose an additional assessment, the period within which a claim for refund~~
25 ~~or credit may be filed or a credit or refund allowed if no claim is filed is automatically extended.~~

26 ~~(3) — If a return is required to be filed and the taxpayer fails to file the return, the tax may be~~
27 ~~assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the~~
28 ~~taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery~~

1 of the fraud by the department."

2

3 **Section 20.** Section 15-64-106, MCA, is amended to read:

4 **"15-64-106. Authority to collect delinquent taxes.** (1) (a) The Subject to [section 1], the
5 department shall collect taxes that are delinquent as determined under this part.

6 (b) If a tax imposed by this part or any portion of the tax is not paid when due, the department may
7 issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

8 (2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal
9 has expired, the department may direct the offset of tax refunds or other funds due the licensee from the state,
10 except wages subject to the provisions of 25-13-614 and retirement benefits.

11 (3) As provided in 15-1-705, the licensee has the right to a review of the tax liability prior to any
12 offset by the department.

13 (4) The department may file a claim for state funds on behalf of the licensee if a claim is required
14 before funds are available for offset."

15

16 **Section 21.** Section 15-68-516, MCA, is amended to read:

17 **"15-68-516. Authority to collect delinquent taxes.** (1) (a) The Subject to [section 1], the
18 department shall collect taxes that are delinquent as determined under this chapter.

19 (b) If a tax imposed by this chapter or any portion of the tax is not paid when due, the department
20 may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

21 (2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal
22 has expired, the department may direct the offset of tax refunds or other funds due the taxpayer from the state,
23 except wages subject to the provisions of 25-13-614 and retirement benefits.

24 (3) As provided in 15-1-705, the taxpayer has the right to a review of the tax liability prior to any
25 offset by the department.

26 (4) The department may file a claim for state funds on behalf of the taxpayer if a claim is required
27 before funds are available for offset."

28

1 **Section 22.** Section 15-70-110, MCA, is amended to read:

2 "**15-70-110. Authority to collect delinquent motor fuel taxes -- offset -- hearing.** (1) The Subject
3 to [section 1], the department of transportation shall collect motor fuel taxes that are delinquent as determined
4 under this chapter.

5 (2) — To collect delinquent taxes after the time for appeal has expired, the department may direct the
6 offset of tax refunds or other funds due the taxpayer from the state, except wages subject to the provisions of
7 25-13-614 and retirement benefits.

8 (3) — As provided in 15-1-705, the taxpayer has the right to a hearing on the tax liability prior to any
9 offset by the department.

10 (4) — The department may file a claim for state funds on behalf of the taxpayer if a claim is required
11 before funds are available for offset.

12 (5) — The department shall provide the taxpayer with notice of the right to request a hearing under
13 the contested case procedures of Title 2, chapter 4, on the matter of the offset action or the department's intent
14 to file a claim on behalf of the taxpayer. A request for hearing must be made within 30 days of the date of the
15 notice. If a hearing is requested, it must be held within 20 days of the request."

16

17 **Section 23.** Section 15-70-417, MCA, is amended to read:

18 "**15-70-417. Penalties for delinquency.** (1) Except for tax due under the agreement adopted under
19 15-70-121, any fuel tax not paid within the time provided in 15-70-113 (3) and 15-70-410 is delinquent. A
20 penalty of 10% must be added to the tax, and the tax bears interest at the rate of 1% per month, prorated daily,
21 from the date of delinquency until paid.

22 (2) — Except as provided in subsection (3), a statement filed after the date required in 15-70-410 is
23 subject to a \$100 penalty.

24 (3) — (a) The department shall waive the penalty if the late filing is the first offense within a 3-year
25 period of timely filings.

26 (b) — The department may waive the penalty if the director or the director's designee determines the
27 late filing or payment to be beyond the distributor's control.

28 (4) — If a distributor or other person required to pay the tax willfully fails, neglects, or refuses to file

1 any statement required by this part or willfully fails to pay the tax within the time provided, the department may
2 revoke any license issued under this part.

3 (5) ~~Except as provided in [section 1] and subsection (3), the department shall proceed to collect a~~
4 ~~delinquent tax, with penalties and interest. At the request of the department, the attorney general shall~~
5 ~~commence and prosecute to final determination in any court of competent jurisdiction an action to collect the~~
6 ~~tax. "~~

7

8 **Section 24.** Section 15-72-113, MCA, is amended to read:

9 ~~"15-72-113. Authority to collect delinquent taxes. (1) (a) The Subject to [section 1], the~~
10 ~~department shall collect taxes that are delinquent as determined under this part.~~

11 (b) ~~If a tax imposed by this part or any portion of the tax is not paid when due, the department may~~
12 ~~issue a warrant for distraint as provided in Title 15, chapter 1, part 7.~~

13 (2) ~~In addition to any other remedy, in order to collect delinquent taxes after the time for appeal~~
14 ~~has expired, the department may direct the offset of tax refunds or other funds that are due to the taxpayer from~~
15 ~~the state, except wages subject to the provisions of 25-13-614 and retirement benefits.~~

16 (3) ~~As provided in 15-1-705, the taxpayer has the right to a review on the tax liability prior to any~~
17 ~~offset by the department.~~

18 (4) ~~The department may file a claim for state funds on behalf of the taxpayer if a claim is required~~
19 ~~before funds are available for offset."~~

20

21 NEW SECTION. Section 7. Codification instruction. [Section 1] is intended to be codified as an
22 integral part of Title 15, chapter 1, part 4 7, and the provisions of Title 15, chapter 1, part 4 7, apply to [section
23 1].

24

25 NEW SECTION. Section 8. Effective date. [This act] is effective January 1, 2024.

26

27 NEW SECTION. Section 9. Applicability. [This act] applies to tax years beginning after December
28 31, 2023.

1

- END -