



AN ACT REVISING TAXPAYER DISPUTE RESOLUTION PROCEDURES; PROVIDING A TAXPAYER OPTION TO BYPASS THE DEPARTMENT OF REVENUE'S DISPUTE RESOLUTION OFFICE; REQUIRING INFORMAL DISCOVERY IN CERTAIN CASES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-1-211 AND 15-2-302, MCA; AND PROVIDING AN APPLICABILITY DATE.

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

**Section 1.** Section 15-1-211, MCA, is amended to read:

**"15-1-211. Uniform dispute review procedure -- notice -- appeal.** (1) The department shall provide a uniform dispute review procedure for all persons or other entities, except as provided in subsection (1)(a).

(a) The department's dispute review procedure must be adopted by administrative rule and applies to all matters administered by the department and to all issues arising from the administration of the department, except estate taxes, property taxes, and the issue of whether an employer-employee relationship existed between the person or other entity and individuals subjecting the person or other entity to the requirements of chapter 30, part 25, or whether the employment relationship was that of an independent contractor. The procedure applies to assessments of centrally assessed property taxed pursuant to chapter 23.

(b) (i) The term "other entity", as used in this section, includes all businesses, corporations, and similar enterprises.

(ii) The term "person" as used in this section includes all individuals.

(2) (a) Persons or other entities having a dispute with the department have the right to have the dispute resolved by appropriate means, including consideration of alternative dispute resolution procedures such as mediation.

(b) The department shall establish a dispute resolution office to resolve disputes between the department and persons or other entities. When a case is transferred to the dispute resolution office, the parties shall attempt to attain the objectives of discovery through informal consultation or communication. Formal discovery procedures may not be utilized by a taxpayer or the department unless reasonable informal efforts to obtain the needed

information have not been successful.

(c) Once a case is transferred to the dispute resolution office, a person or entity may elect to bypass review by the dispute resolution office and receive a final department decision within 30 days of receiving the election.

~~(c)~~(d) Disputes must be resolved by a final department decision within 180 days of the referral to the dispute resolution office, unless extended by mutual consent of the parties.

(e) If a final department decision is not issued within the required time period, the remedy is an appeal to the appropriate forum as provided by law.

(3) (a) The department shall provide written notice to a person or other entity advising the person or entity of a dispute over matters administered by the department.

(b) The person or other entity shall have the opportunity to resolve the dispute with the department employee who is responsible for the notice, as indicated on the notice.

(c) If the dispute cannot be resolved, either the department or the other party may refer the dispute to the dispute resolution office.

(d) The notice must advise the person or other entity of their opportunity to resolve the dispute with the person responsible for the notice and their right to refer the dispute to the dispute resolution office.

(4) Written notice must be sent to the persons or other entities involved in a dispute with the department indicating that the matter has been referred to the dispute resolution office. The written notice must include:

(a) a summary of the department's position regarding the dispute;

(b) an explanation of the right to the resolution of the dispute with a clear description of all procedures and options available;

(c) the right to obtain a final department decision within 180 days of the date that the dispute was referred to the dispute resolution office;

(d) the right to obtain a final department decision within 30 days of the date that the department receives an election to bypass review by the dispute resolution office;

~~(d)~~(e) the right to appeal should the department fail to meet the required deadline for issuing a final department decision; and

~~(e)~~(f) the right to request alternative dispute resolution methods, including mediation.

(5) The department shall:

(a) develop guidelines that must be followed by employees of the department in dispute resolution matters;

(b) develop policies concerning the authority of an employee to resolve disputes; and

(c) establish procedures for reviewing and approving disputes resolved by an employee or the dispute resolution office.

(6) (a) (i) The director of revenue or the director's designee is authorized to enter into an agreement with a person or other entity relating to a matter administered by the department.

(ii) The director or the director's designee has no authority to bind a future legislature through the terms of an agreement.

(b) Subject to subsection (6)(a)(ii), an agreement under the provisions of subsection (6)(a)(i) is final and conclusive, and, except upon a showing of fraud, malfeasance, or misrepresentation of a material fact:

(i) the agreement may not be reopened as to matters agreed upon or be modified by any officer, employee, or agent of this state; and

(ii) in any suit, action, or proceeding under the agreement or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance with the agreement, the agreement may not be annulled, modified, set aside, or disregarded."

**Section 2.** 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) 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.

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

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

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

**Section 3. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

**Section 4. Applicability.** [This act] applies to proceedings commenced on or after January 1, 2018.

- END -

I hereby certify that the within bill,  
SB 0137, originated in the Senate.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2017.

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Secretary of the Senate

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2017.

SENATE BILL NO. 137

INTRODUCED BY D. ANKNEY, F. THOMAS

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