

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Bob Brown, Chairman, on January 27, 1989, at 8:00 a.m.

ROLL CALL

Members Present: Senator Brown, Senator Bishop, Senator Crippen, Senator Eck, Senator Gage, Senator Hager, Senator Halligan, Senator Mazurek, Senator Norman, Senator Severson, Senator Walker

Members Excused: None

Members Absent: Senator Harp

Staff Present: Jill Rohyans, Committee Secretary
Jeff Martin, Legislative Council

Announcements/Discussion: None

HEARING ON HOUSE BILL 92

Presentation and Opening Statement by Sponsor:

Representative Eudaily, District 60, sponsor of the bill, said the bill attempts to provide for a reasonable extension of the deadlines for the application for class four property classification and provides an effective date. It requests an extension of time for low income people who for reasonable cause miss the March 1 deadline date. He cited an example of a ninety year old man in Missoula, living on a small pension, who missed the filing deadline because of the illness of the family member who was taking care of him. His taxes doubled as a result of missing the deadline. Because there is no provision for late filing, there is no safety net for situations such as this.

The Department of Revenue has addressed the problem in their administrative rules with a provision for an extension which has been incorporated into this bill.

The bill also provides for a one time application for classification which must be applied for before March 1 and then will remain in effect in subsequent years unless there is a change in the applicant's eligibility.

List of Testifying Proponents and What Group they Represent:

None

List of Testifying Opponents and What Group They Represent:

None

Testimony:

None

Questions From Committee Members:

Senator Mazurek expressed concern about "good cause". He said it is narrowly defined in this bill but is not standardized across state statutes. He wondered if there shouldn't be a uniform good cause statute rather than going into statute for each situation that arises.

Senator Crippen suggested language such as "the department may consider the following as the determination of good cause" instead of the strict standards in sub 3. He felt there is no way to get a standard definition for good cause that can be applied across the board.

Closing by Sponsor:

Representative Eudaily closed by saying the Department of Revenue had worked on the amendments with the Legislative Council and they feel the bill is workable as written.

EXECUTIVE SESSION

DISPOSITION OF SENATE BILL 132

Discussion:

Senator Mazurek reviewed the proposed amendments (Exhibit #1). He said the effect of the Section 4 amendment is to clarify that superiority is not given to any interest that the United States may have in a piece of ground. The main amendment is amendment #3. The intention is to make sure that a partial payment can be made so long as the taxes have not been paid by someone who went in and paid the taxes and took an assignment of the county's tax sale certificate. Also, the partial payment can be made as long as a tax deed has not been issued. He pointed out that a partial payment can be made as long as the taxes are no longer than 36 months overdue. He said the intent of the legislation last session was to provide for partial payments. This bill allows someone to pay current year taxes without having to pay the entire delinquency. It is a compromise in that the current taxes plus at least one full year must be paid.

DISPOSITION OF SENATE BILL 184

Discussion:

Senator Severson noted this is basically the same bill that was passed two years ago. Since then, the District Court has ruled the tax unconstitutional and has ordered a refund back to 1983. The case is now in the Supreme Court. Senator Severson said he personally does not agree with the refund provision and so he brought it back again as he feels this is a legislative rather than a judicial decision. Although the Court cannot be taken out of the case at this point, this legislation will straighten things out so that there is not another year to be refunded regardless of the Court's decision.

Amendments and Votes: None

Recommendation and Vote:

Senator Severson moved SB 184 DO PASS.

Senator Eck expressed concern about replacement revenue to the counties. She said it is unfair to cut the counties' tax bases without a replacement.

Senator Crippen asked for clarification of the cow/calf differentiation as regards inventory. He felt calves should be considered inventory as they are sold fairly soon. However, cows are the production machinery and should not be considered turnover inventory.

Senator Severson replied that the average life of a cow is six years. This is a revolving group of animals that is sold every six years on average and that does constitute inventory. He noted they have been considered inventory for 54 years.

Senator Gage said he would support the bill but wanted to make two points concerning why he felt cows should not be considered inventory. First of all, if a farmer is on the inventory method of income tax preparation, the cows that are part of the breeding herd that had been in place for two or more years were taken out of the inventory method and put on Schedule D, the capital gains schedule. They were then no longer taxed as inventory, but as capital gains. The second point is that inventory is considered that merchandise which is normally for sale in the course of the business. He said that is not true of breeding cows. They are for sale, but not necessarily in the course of the business. He said the IRS ruled that older cows are not considered inventory, but bred heifers are inventory when they are sold as a normal course of business.

Senator Eck asked if livestock are depreciated under the new tax laws.

Senator Gage replied that livestock is depreciated in capital gains only as far as value is concerned. He noted inventory cannot be depreciated.

The Chairman called for a roll call vote. The motion CARRIED as per the vote recorded in Exhibit #2.

DISPOSITION OF SENATE BILL 132

Discussion:

Senator Mazurek submitted an amendment as per the previous discussion of the bill (Exhibit #3). The net result of the amendments would be that the current year tax can be paid by paying the current year tax and one of the three years delinquent taxes as opposed to having to pay all three years delinquencies before being able to pay the current year.

Amendments and Votes:

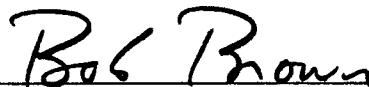
Senator Mazurek moved the amendments as per Exhibit #1 and Exhibit #3. The motion CARRIED unanimously.

Recommendation and Vote:

Senator Mazurek moved SB 132 DO PASS AS AMENDED. The motion CARRIED with Senators Harp and Crippen voting no.

ADJOURNMENT

Adjournment At: 10:00 a.m.



SENATOR BOB BROWN, Chairman

BB/jdr

MIN127.jdr

ROLL CALL

TAXATION

COMMITTEE

50st LEGISLATIVE SESSION -- 1989

Date 1/27/89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BROWN	X		
SENATOR BISHOP	X		
SENATOR CRIPPEN	X		
SENATOR ECK	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR HALLIGAN	X		
SENATOR HARP		X	
SENATOR MAZUREK	X		
SENATOR NORMAN	X		
SENATOR SEVERSON	X		
SENATOR WALKER	X		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

January 27, 1989

MR. PRESIDENT:

We, your committee on Taxation, having had under consideration SB 184 (first reading copy - white), respectfully report that SB 184 do pass.

DO PASS

Signed: _____

Bob Brown
Bob Brown, Chairman

*y/c
1/27/89
12:45
PM.*

Amendments to Senate Bill No. 132
First Reading Copy

Requested by Senator Mazurek
For the Committee on Taxation

Prepared by Jeff Martin
January 26, 1989

1. Page 1, line 9

Following: "15-18-112"

Strike: "AND"

Following: "15-18-114,"

Insert: "AND 15-18-214,"

2. Page 5, line 11.

Following: "(1)"

Insert: "Except as provided in subsection (3),"

Strike: "In"

Insert: "in"

3. Page 5.

Following: line 22

Insert: "(3) The property tax lien may also be redeemed for a particular tax year by a partial payment of that tax year as provided in 15-16-102(5) if:

(a) the property tax lien for the year in which the partial payment is made is owned by the county; and

(b) ~~the redemption period provided in 15-18-111 has not expired for the year for which the partial payment is made.~~ *tax deed has not been issued pursuant to 15-18-214*

Section 4. Section 15-18-214, MCA, is amended to read:

"15-18-214. Effect of deed. (1) A deed issued under this chapter conveys to the grantee absolute title to the property described therein as of the date of the expiration of the redemption period, free and clear of all liens and encumbrances, except:

(a) when the claim is payable after the execution of the deed and:

(i) a property tax lien attaches subsequent to the tax sale; or

(ii) a lien of any special, rural, local improvement, irrigation, or drainage assessment is levied against the property;

(b) when the claim is an easement, servitude, covenant, restriction, reservation, or similar burden lawfully imposed on the property; or

(c) when ~~an interest in~~ the land is owned by the United States, this state, or a subdivision of this state.

(2) Under the conditions described in subsection (1), the deed is prima facie evidence of the right of possession accrued as of the date of expiration of the period for redemption or the date upon which a tax deed was otherwise issued."

Renumber: subsequent sections

ROLL CALL VOTE

SENATE TAXATION

EXHIBIT NO. 2

DATE 1/27/89

NO. SB 184

SENATE COMMITTEE TAXATION

Date 1/27 Senate Bill No. 184 Time _____

NAME	YES	NO
SENATOR BROWN	X	
SENATOR BISHOP	X	
SENATOR CRIPPEN	X	
SENATOR ECK		X
SENATOR GAGE	X	
SENATOR HAGER	X	
SENATOR HALLIGAN		X
SENATOR HARP		
SENATOR MAZUREK		X
SENATOR NORMAN		X
SENATOR SEVERSON	X	
SENATOR WALKER		X

Secretary Bill Bohyane

Chairman SENATOR BOB BROWN

Motion: by Senator Severson that
SB 184 do pass

EXHIBIT NO. 3

for "said date said taxes"; and in (4) made minor grammatical changes.

Definition of "school district", 20-15-408. Hail DATE ~~ANCE~~ ^{ASSESSMENT} included with statement, 80-2-224.

Cross-References

Treasurer as collector of taxes, 7-6-2503. Delivery of book to Treasurer, 15-10-307.

Copy ~~of~~ ^{of} ~~waiver~~ ^{rights} ~~being~~ ^{notice} included with statement, 85-2-213.

15-16-102. Time for payment — penalty for delinquency. All taxes levied and assessed in the state of Montana, except assessments made for special improvements in cities and towns payable under 15-16-103 and assessments made on interim production and new production as provided in Title 15, chapter 23, part 6, and payable under 15-16-121, shall be payable as follows:

(1) One-half of the amount of such taxes shall be payable on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, and one-half on or before 5 p.m. on May 31 of each year.

(2) Unless one-half of such taxes are paid on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, then such amount so payable shall become delinquent and shall draw interest at the rate of 5/6 of 1% per month from and after such delinquency until paid and 2% shall be added to the delinquent taxes as a penalty.

(3) All taxes due and not paid on or before 5 p.m. on May 31 of each year shall be delinquent and shall draw interest at the rate of 5/6 of 1% per month from and after such delinquency until paid and 2% shall be added to the delinquent taxes as a penalty.

(4) If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without penalty or interest on or before 5 p.m. of the next business day in accordance with 1-1-307.

(5) ^{A taxpayer may pay all current taxes without paying delinquent taxes.} If the taxes become delinquent, the county treasurer ~~may~~ ^{must} accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or more full taxable years, provided both halves of the current tax year have been paid. Payment of delinquent taxes must be applied to the taxes that have been delinquent the longest.

History: En. Sec. 1, Ch. 96, L. 1923; amd. Sec. 1, Ch. 79, L. 1929; amd. Sec. 1, Ch. 67, L. 1931; amd. Sec. 4, Ch. 158, L. 1933; Sec. 1(a) amd. Sec. 1, Ch. 1, Ex. L. 1933; re-en. Sec. 2169.2, R.C.M. 1935; R.C.M. 1947, 84-4103; amd. Sec. 2, Ch. 165, L. 1979; amd. Sec. 4, Ch. 527, L. 1981; amd. Sec. 2, Ch. 576, L. 1981; amd. Sec. 2, Ch. 6, Sp. L. 1981; amd. Sec. 19, Ch. 695, L. 1985; amd. Sec. 1, Ch. 69, L. 1987; amd. Sec. 30, Ch. 587, L. 1987; amd. Sec. 8, Ch. 655, L. 1987.

Compiler's Comments

1987 Amendments: Chapter 69 in (1) and (2) inserted "or within 30 days after the tax notice is postmarked, whichever is later"; and inserted (4).

Chapter 587 in (1) and (2) inserted "or within 30 days after the notice is postmarked, whichever is later"; and inserted (5).

Chapter 655 in introductory clause, before "new production", inserted "interim production and".

Cross-References

County Treasurer to collect city and town taxes, 7-6-4413.

- Definition of "improvements", 15-1-101.
- Reduction of tax for destroyed property, 15-16-611.
- Applicable to payment of tax on net proceeds and royalties of mines, 15-23-507.
- Applicable to payment of tax on metal mines, 15-23-804.
- Delinquent taxpayer ineligible for hail insurance program, 80-2-207.
- Collection of expenses of eradicating orchard diseases, 80-7-206.
- Collection of expenses of eradicating barberry plants, 80-7-303.
- Collection of irrigation district assessments, 85-7-2136.