

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By CHAIRMAN GERRY DEVLIN, on January 24, 1995, at
8:00 a.m.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Mike Foster, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John G. Harp (R)
Sen. Dorothy Eck (D)
Sen. Barry "Spook" Stang (D)
Sen. Fred R. Van Valkenburg (D)

Members Excused: None

Members Absent: None

Staff Present: Jeff Martin, Legislative Council
Rene'e Podell, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 39, SB 107
Executive Action: SB 139 (No Final Action)

HEARING ON SB 39

Opening Statement by Sponsor:

SEN. MIKE HALLIGAN, Senate District 34, Missoula, explained that in the special session, an attempt was made to address the legal facts collected by the State of Montana concerning the Davis v. Michigan decision. He reported that settlement was reached with those who timely filed their returns. SEN. HALLIGAN affirmed that this bill attempts to address the federal retirees who, for one reason or another, did not file timely returns. He submitted letters from people who thought they were given erroneous advice by the Department of Revenue, or advice that led them to believe they should not file returns at any given time during the process. EXHIBITS 1 and 2 (See Exhibits 3 - 126). He commented that the bill is explained in the fiscal note. SEN.

HALLIGAN stated it is a matter of equity, noting these are bills that should be paid before any tax incentives or surplus is given back.

{Tape: 1; Side: A; Approx. Counter: 7.7.}

Proponents' Testimony:

Ed Sheehy, National Association of Retired Federal Employees, gave a brief history of what caused the problem for federal retirees. He reported that in May, 1994, the lawsuit Sheehy v. Department of Revenue, approving refunds for those retirees who filed timely claims, was approved in district court. Mr. Sheehy commented there has been over 50 years of discrimination against federal retirees. He asked for the committee's support of SB 39.

Tom Harrison, Montana Society of Certified Public Accountants, commented that SB 39, is viewed as a fairness issue. He reported there were mixed messages for filing a request in a timely fashion occurring not only in the DOR booklets to individuals, but in the ranks of CPA's.

Dennis Burr, Montana Taxpayers Association, reported this was a complicated process, even for CPA's, and requested support for SB 39.

Herman Wittman, State President of the National Association of Retired Employees, supports this legislation, but is concerned with administrative workload of the DOR (handling of accounts), and how to consider Montana retirees who now live outside of Montana.

Rick Darvis, Certified Public Accountant, Plentywood, Montana, presented EXHIBITS 3 - 127 (Letters written by people who thought they were given erroneous advice by the DOR-letters in response to Mr. Darvis' ad). (Exhibits 3 - 126 were identical to those submitted by SEN. HALLIGAN earlier-See Exhibit 1 and 2). Mr. Darvis described the history of incorrect advice given to retirees, and the advice given to CPA's when they phoned the DOR. He stressed the notification process was very ineffective.

Elmer Fauth, National Association of Retired Employees, and the Montana Senior Citizens Association, presented written testimony EXHIBIT 128. Mr. Fauth alleged there was a mistake made which needs to be corrected.

Dick Hoy, Retired Federal Employee, detailed the log of events leading to what he described as the state treasury protecting itself, and not protecting the rights of citizens. Mr. Hoy asked that consideration be given to amending the Statute of Limitations as proposed in SB 39.

Opponents' Testimony:

None

Informational Testimony:

-
None

{Tape: 1; Side: A; Approx. Counter: 22.9.}

Questions From Committee Members and Responses:

SEN. MIKE FOSTER questioned **Mick Robinson** regarding the testimony of Mr. Harrison, and Mr. Darvis. He asked **Mr. Robinson** if the DOR was sensitive to the fact that people had a hard time following the DOR's instructions and recommendations on this issue. **Mr. Robinson** responded that the DOR is concerned with whether or not mixed messages were sent. He commented that the DOR heard comments regarding oral messages; however, no written documentation has been presented indicating that the DOR furnished mixed messages. **Mr. Robinson** submitted a handout prepared by the DOR, titled "Recap of Federal Retiree Lawsuit and Refund Process". **EXHIBIT 129**. He reported that the Statute of Limitations is not something that the DOR can override from an administrative viewpoint. **Mr. Robinson** explained that in the settlement discussions that were held, his first question to the federal retiree representatives was how should the DOR include the non-timely filed returns. He stated that the consensus of that particular group was that they shouldn't be included, because they were aware of their responsibility to file tax returns. **Mr. Robinson** acknowledged that based on that understanding the discussions proceeded.

SEN. FOSTER stated that he could understand how some individual CPA's might not get the DOR's message; however, it is alarming that the Montana Society of CPA's has testified as a group that mixed messages were given from the DOR. He asked **Mr. Robinson** to respond. **Mr. Robinson** questioned if there was anything in writing that the DOR provided that is contrary to the press releases, etc., or was it a situation that was confused with a lot of oral communication. He insisted that the DOR gave a consistent message.

SEN. MACK COLE questioned **Mr. Robinson** in regard to the press release which only granted a five day notice. **Mr. Robinson** said that the press release was dated April 10, 1989. He noted that the timing of the Davis decision, in terms of when it came out of the court system, was March 29, 1989. He admitted there was a short time horizon, acknowledging it wasn't the DOR's timing situation, it was the timing of the court hearings.

SEN. JOHN HARP questioned **Mr. Sheehy** in regard to the settlement discussion that occurred in 1993. SEN. HARP asked **Mr. Sheehy** when the State of Montana will close its books on this issue. **Mr. Sheehy** said at the time of the discussions, on the basis of his lawsuit, he felt only those who filed timely returns could be included within the Statute of Limitations. He commented that whatever the legislature does here, will end here. SEN. HARP asked **Mr. Sheehy** if he did say only those who filed timely

returns should be included in the lawsuit settlement. **Mr. Sheehy** answered, "yes".

SEN. LORENTS GROSFIELD asked **Mr. Darvis** in how many newspapers he put his ad in. **Mr. Darvis** reported that he placed the ad in about 60 newspapers.

SEN. DELWYN GAGE questioned **Mick Robinson** in regard to proposed refunds for many years. He asked him if it would open those years for additional audits. **Mr. Robinson** said that this legislation would open the Statute of Limitations narrowly for this one issue.

SEN. GAGE acknowledged that on Page 2, Lines 26-29, the language may be construed as including estate tax, and asked **SEN. HALLIGAN** if that was his intent. **SEN. HALLIGAN** said, "no".

Closing by Sponsor:

SEN. HALLIGAN commented that the notice provisions are a problem as indicated by the CPA's testimony. He stressed that it is important to pay our debts incurred in prior years before doing anything else. **SEN. HALLIGAN** urged support for SB 39.

{Tape: 1; Side: A; Approx. Counter: 49.2.}

HEARING ON SB 107

Opening Statement by Sponsor:

SEN. MIKE HALLIGAN, Senate District 34, Missoula, explained that during the special session an attempt was made to address the people's anger over increased property taxes. He reported that SB 107 is a simple bill, phasing in increases. **SEN. HALLIGAN** said this bill goes into effect in 1998.

SEN. HALLIGAN notified the committee that he had to leave, and was unable to answer questions. **SEN. DEVLIN** said he had questions on the bill. **SEN. HALLIGAN** responded that he would be happy to come back on another day to answer questions. **SEN. DEVLIN** asked **SEN. HALLIGAN** if there was a chance for overlap when presenting the 1/3 cycle. **SEN. HALLIGAN** commented that there isn't an intentional overlap.

Proponents' Testimony:

None

Opponents' Testimony:

None

Informational Testimony:

Pat McKelvey, Chairman, State Tax Appeal Board, proclaimed not to

be a proponent or an opponent. He stated currently the agricultural values are being phased in, and it isn't a new idea. {Tape: 1; Side: A; Approx. Counter: 55.3; Comments: Speaker is hard to understand..}

Mick Robinson, Director, Department of Revenue, stressed he is neither an opponent nor a proponent. He commented that this particular bill phases in the increases, but puts the decreases into effect immediately. He said that the review of the DOR's legal staff brought up the question about the constitutionality of that particular issue in terms of equalization. **Mr. Robinson** voiced his concern in regards to new construction or improvements, which doesn't appear to be addressed by the bill.

Questions From Committee Members and Responses:

SEN. FRED VAN VALKENBURG directed a comment to **Mr. Robinson** stating that he reads the second technical note regarding the potential constitutional problem differently than **Mr. Robinson** does. {Tape: 1; Side: B; Approx.; Comments: Tape Turned to Side B.}

Mr. Robinson asked **SEN. VAN VALKENBURG** if he was referring to Item #2, in the technical note. **SEN. VAN VALKENBURG**, said "yes". **Mr. Robinson** responded, "in that particular situation, you are saying we have a phase in if you put the decreases into effect right away, then, in fact, you have valued those properties that decreases at 100% of market value. The properties that have increases are not valued at 100% market value, their values are being phased in." **SEN. VAN VALKENBURG**, said "I want you to disregard the issue of decreases in value. I'm not talking about decreases in value. You can potentially fix that by phasing in. I'm talking about somebody whose value has not changed from the previous reappraisal cycle, but it is 100% of market value. You are comparing that with somebody whose value has been increased by virtue of reappraisal. Their increase is going to be phased in over a three year period. Isn't there a constitutional problem with the unequal treatment between someone who is being taxed at 100% of market value, and someone who is going to have this phase in over that three year period, without a change in the constitution?" **Mr. Robinson** responded, "I think if you have a situation where yes you have a property whose value is not phased in for some reason, and your example indicates that the property has the same value as it had in the last year's appraisal you then have that property at 100% of it's market value and you're phasing in the other." He stated, "from a practical standpoint, I don't know if you go to a three or seven year reappraisal you would ever come up with a piece of property that has the identical value, and does not change in value."

SEN. DOROTHY ECK asked **Mr. Robinson** what happens to the agricultural class. **Mr. Robinson** stated that the legal opinion is, if you are phasing in increases and decreases equally then you need the equalization requirement.

SEN. ECK questioned **Mr. Robinson** in regard to the appeal process.

Mr. Robinson said values are being set. He stated that appeals should be filed possibly at the time the original value is set. Mr. McKelvey discussed his opinion of the appeal process according to the Administrative Rules.

SEN. MACK COLE stated it appears, when preference is given to one person, you discriminate against everybody else. He commented to Mr. Robinson that there may be a constitutional problem. Mr. Robinson said, "if there is a situation where a taxpayer ends up being taxed at 100% of their market value, and others are not, then, I would agree you probably have a constitutional issue with that one piece of property".

CHAIRMAN DEVLIN closed the hearing for SEN. HALLIGAN.

EXECUTIVE ACTION ON SB 139

Motion: SEN. GAGE MOVED AMENDMENTS prepared by the Department of Revenue.

Discussion: CHAIRMAN DEVLIN asked Jeff Martin if he had reviewed the amendments. Mr. Martin stated that it was the first time he had seen them. CHAIRMAN DEVLIN requested that SEN. GAGE address the amendment further in regard to the K-1 schedule.

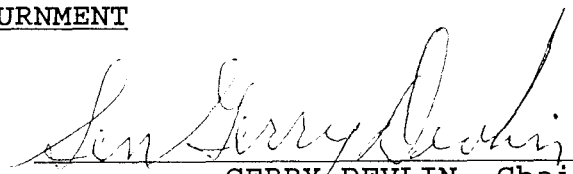
SEN. GAGE explained that a K-1 schedule is required by entities that have reportable income from partnerships, corporations, limited liability companies, and to people who own interest in those entities, showing their distribution of the income of these entities. He commented that those entities don't pay income tax on their income.

CHAIRMAN DEVLIN asked that the DOR put amendments through Jeff Martin.

SEN. GAGE stated that he will withdraw his motion in order to give Mr. Martin time to review the amendments.

ADJOURNMENT

Adjournment: 9:31 a.m.


GERRY DEVLIN, Chairman


RENEE J. PODELL, Secretary

GD/rp

ROLL CALL

DATE January 24, 1995

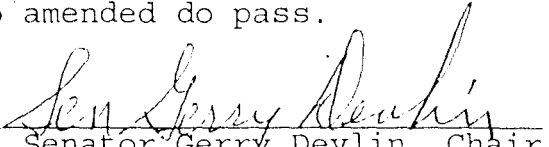
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wp.rollcall.man
CS-09

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 26, 1995

MR. PRESIDENT:

We, your committee on Taxation having had under consideration SB 56 (second reading copy -- yellow), respectfully report that SB 56 be amended as follows and as so amended do pass.

Signed: 
Senator Gerry Devlin, Chair

That such amendments read:

1. Title, lines 5 through 7.

Strike: "SHORTENING" on line 5 through "EXTENSION;" on line 7

2. Title, lines 8 and 9.

Strike: "PROVIDING" on line 8 through "CIRCUMSTANCES;" on line 9

3. Page 1, line 26.

Strike: "4-month"

Insert: "6-month"

4. Page 1, lines 28 and 29.


Strike: ". IF" on line 28 through "FORMS." on line 29

Insert: "; and"

5. Page 2, lines 3 through 6.

Strike: subsection (3) in its entirety

-END-

 Amd. Coord.
31 Sec. of Senate

221231SC.SPV


SENATE STANDING COMMITTEE REPORT

Page 1 of ?
January 26, 1995

MR. PRESIDENT:

We, your committee on Taxation having had under consideration
HB 171 (third reading copy -- blue), respectfully report that HB
171 be concurred in.

Signed: 
Senator Gerry Devlin, Chair

 and record



CHMS, P.C.
CERTIFIED PUBLIC ACCOUNTANTS

SENATE TAXATION

DATE January 24, 1995 P.O. Box 1239
EXHIBIT NO. 1 41 South First West
BILL NO. SB 39 Malta, Montana 59538
406-654-1575
FAX 406-654-2689
800-767-2467

December 30, 1994

RE: Federal Retirees Pension Exclusion

Dear Montana Legislator:

This letter is written in support of any legislation which might be presented to the Legislature during the 1995 session which pertains to the refunding of taxes previously collected by the State on federal retirement income. As you are probably aware, many federal retirees were not allowed the entire refund they would have otherwise been entitled to as a result of the State imposing the Statute of Limitations on those years where claims were not timely filed.

As a tax preparer, it bothers me that the State is using the Statute of Limitations in denying these refunds. I know of a number of taxpayers who initially filed amended returns but, after long delays and continued refusal by the State to pay, did not continue to file for later years. From our standpoint it was difficult to prepare amended returns for all of the years in question and charge the taxpayer for doing so when there was a delay in resolving the overall issue. In one particular case we had failed to file an amended return for one of the later years for a client and were obligated to refund that tax to them out of our own pocket. Since the delays were not the result of the taxpayers but rather a result of State action it does not seem prudent to impose the Statute against them.

Your consideration and support of this issue is appreciated.

Sincerely,

Robert A. Maxie, CPA
C H M S, P.C.
Certified Public Accountants

Rick Darvis, CPA

121 North Main Street
Plentywood, Mt. 59254
(406) 765-2030

SENATE TAXATION

DATE January 24, 1995

LEGISLATION NO. 2

BILL NO. SB 39

1-800-765-2031

Dear Mr. Halligan:

I do tax returns for apporximately twenty federal retirees. In April of 1989 I was made aware that these retirees may have been illegally taxed by the State of Montana. I proceeded to amend my clients tax returns for the years 1983-88. To insure that I was doing the correct things I called the MT Dept of Revenue on April 11, 1989 (attached is copy of my phone bill). They instructed me to just send in the 1983 amended tax return. They said that when the lawsuit was settled they would deal with the rest of the years in question. However, when the state settled the Sheehy lawsuit my clients were excluded because they had not timely filed their amended tax returns. I was very upset by this action so I called a few other accountants in my area. Those who called the Dept of Revenue recall being told the same thing as I was told (only file the 1983 amended returns). I feel that we were severely penalized because we relied on information given to us by the Dept of Revenue.

I feel that the State of Montana should correct this situation. The Dept of Revenue is saying that we can't refund this illegally collected tax because we would be violating the statute of limitations law. It's ironic that they are saying it is illegal to refund an illegally collected tax. In private business if people are illegally overcharged they are made to refund the overcharge and may possibly be charged for illegal activities (eg. President Clinton's lawyer friend of recent notoriety).

Please help us keep the trust in our government. DO THE RIGHT THING!!

Respectfully,



Rick Darvis, CPA
Dec 16, 1994



For a complete copy of your records.

These charges are included in the total amount due.

RICK DARVIS
408 E LASATER
BILL DATE: MAY 07, 1989
ACCOUNT NUMBER: 406-765-2030-695B

AT&T PAGE 1

MOVING? ADDING LOCATIONS? NEED ADVICE ON LONG DISTANCE SERVICE?
CALL AT&T ON 1-800-222-0400.

ACCOUNT DETAIL

ITEMIZED CALLS	48.45
TAXES	1.45
AT&T TOTAL	\$49.90

ITEMIZED CALLS

NO.	DATE	TIME	TO PLACE	TO AREA NUMBER	TYPE	MINUTES	AMOUNT
1	APR 10	7:34P	OGDEN UT	801 625-6273	E	2	.32
2	APR 10	7:38P	MISSOULA MT	406 543-0157	E	1	.30
3	APR 11	9:16A	HELENA MT	406 444-2837	D	3	1.13
4	APR 11	9:21A	PORTLAND OR	503 245-9199	D	2	.49
5	APR 11	9:39P	DEERING ND	701 728-6716	E	15	2.31
6	APR 12	2:41P	MINOT ND	701 839-3726	D	3	.70
7	APR 13	11:31A	SEATTLE WA	206 622-7365	D	12	2.89
8	APR 13	1:23P	DEERING ND	701 728-6716	D	5	1.16
9	APR 13	1:52P	MINOT ND	701 857-5136	D	13	3.00
10	APR 14	7:40P	ALAMO ND	701 528-4302	E	10	1.48
11	APR 17	9:04A	CHOTEAU MT	406 466-2291	D	1	.47
12	APR 17	9:05A	CHOTEAU MT	406 466-2484	D	5	1.79
13	APR 17	9:12A	CHOTEAU MT	406 466-2291	D	1	.47
14	APR 17	9:13A	CHOTEAU MT	406 466-2484	D	5	1.79
15	APR 17	9:29A	CHOTEAU MT	406 466-2484	D	1	.47
16	APR 18	3:57P	DEERING ND	701 728-6716	D	8	1.85
17	APR 20	9:20P	PHOENIX AZ	602 468-9816	E	2	.34
18	APR 20	9:22P	PHOENIX AZ	602 957-7265	E	1	.17
19	APR 20	9:23P	PHOENIX AZ	602 265-4999	E	16	2.68
20	APR 21	9:05A	HELENA MT	406 442-7301	D	1	.47
21	APR 21	9:15A	HELENA MT	406 442-7301	D	2	.80
22	APR 21	9:17A	GRANDFORKS ND	701 777-3869	D	1	.24
23	APR 23	7:24P	PHOENIX AZ	602 957-7265	E	4	.67
24	APR 23	7:28P	PHOENIX AZ	602 468-9816	E	7	1.17
25	APR 23	7:35P	STSIMONSIS GA	912 638-6482	E	11	1.84
26	APR 24	9:23A	EASTWESTBY ND	701 985-2413	D	7	1.55
27	APR 24	11:37A	HELENA MT	406 444-6438	D	1	.47
28	APR 25	8:43A	HELENA MT	406 444-2837	D	3	1.13
29	APR 25	3:48P	WILLISTON ND	701 572-2307	D	2	.46
30	APR 27	10:44A	LIBBY MT	406 293-7548	D	25	8.39
31	MAY 02	10:32A	HELENA MT	406 444-6490	D	7	2.45
32	MAY 02	2:30P	DEERING ND	701 728-6716	D	9	2.08
33	MAY 08	9:15A	KALISPELL MT	406 752-6562	D	7	2.45
34	MAY 08	2:51P	MINOT ND	701 852-4401	D	2	.47
AT&T SUBTOTAL OF ITEMIZED CALLS							\$48.45

BILLING INQUIRIES CALL 1 800 325-0138
TO PLACE AN ORDER CALL 1 800 222-0400

DATE January 24, 1995EXHIBIT NO. 3BILL NO. SB 39

Dear Governor Racicot:

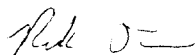
I am asking your help on behalf of the many federal retirees who either did not receive any refund or only a partial refund on their illegally collected income taxes. I understand from talking to some of the retirees involved in the prior lawsuit that without your help none of them would have received refunds. Therefore, I am asking your help on our project to see that all of the money is returned to the federal retirees.

I have placed advertisements in most of the newspapers in the state. I asked for letters from the retirees and their accountants on this matter. I received letters from across Montana on this matter. Following are some of the comments contained in these letters:

- I did my own taxes and didn't know how to file for the refund.
- I moved out of the state and didn't hear about the refund.
- My accountant advised me not file an amended return because there was little chance of receiving a refund.
- I stopped filing amended returns when the Montana Supreme Court ruled against the refund.
- My accountant was told over the phone by the Mt Department of Revenue to only file the 1983 amended tax return and to send the rest of amended returns in when the legal action was finished.
- I quit sending in the amended returns because my accounting bill was mounting and there was not much hope of collecting the refund.
- I did not file amended returns because the CCH State Tax Reporter informed me that the State of Montana does not recognize their responsibility to refund the money. Nothing from the State of Montana indicated anything else until it was too late to file.
- We contacted the Department of Revenue each year and were advised that the only thing we were allowed was the \$3,600 exclusion. Nothing was said about amended returns.
- The State of Montana should treat all retirees the same way. Why should some get the full refund when others do not?
- I feel that we should be given a second chance to file the amended returns. The amount of confusion surrounding this situation warrants a second chance.
- The State of Montana should refund an illegally collected tax before it gives part of the State's surplus back to other taxpayers. Part of this surplus comes from this illegally collected tax.

The above list of comments is not all inclusive but it does show that there was considerable confusion concerning the refund issue. We feel that it is not just a legal issue but it is also a moral issue. Please help us keep the trust in government. Please contact me about this situation.

Respectfully,



Rick Darvis, CPA
November 17, 1994

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 4

BILL NO. SB 39

November 18, 1994

Rick Darvis, CPA
121 N. Main St.
Plentywood, MT 59254

Dear Mr. Darvis:

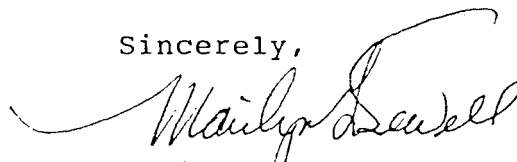
I saw the enclosed ad in The Missoulian a while back. My father is a retired federal employee (age 83 years). He was not one of the retirees who was named as a plaintiff in the lawsuit. After the Supreme Court ruling, last year I filed amended returns for him to the State for the years 1987 and 1988. The State paid him, with interest, for 1988 - but said they could not go back past 5 years for amended returns - so they in effect owe him for the years 1983 thru 1987. He did not keep copies of his returns for more than 5 years; the State tells me they only keep copies for 5 years. There must be a lot of retirees in this position. Do you know of any remedy for them?

I could get his income information for those years from the IRS & so could prepare amended returns - but if the State won't honor them it would be a waste of time.

Wouldn't the State Legislature have to appropriate money to pay these retirees, who were not joined in the lawsuit?

Any info you can share with me would be appreciated.

Sincerely,



Marilyn E. Sewell
601 Cherry St.
Missoula, MT 59802

ATTENTION:

FEDERAL RETIREES

The U.S. Supreme Court ruled the state of Montana incorrectly taxed your retirement. Did you ever receive your full refund? If not,

Contact Rick Davis, CPA, at 121 N. Main St.

2
6
1
m

SENSE TAXATION

DATE January 24, 1995

DEBIT NO. 5

CHG. NO. SB39

RICK DARVIS:

NOV 6, 94

REF. your AD in the MISSOURIAN.
I DID NOT RECEIVE A full
Refund. I filed one Amended
Return AND then gave up.
Interested in what you HAVE
TO SAY - THANK YOU

REX J. GILMAN
3 VIRGINIA DRIVE
MISSOURIA, MT 59803

SECTION
DATE January 24, 1995
EXHIBIT NO. 6
BILL NO. 3839
10/8/94

Dear Mr. Davis

Notice your ad in the Great Falls
Tribune. I have not received any refund
for an amended tax return for 1987.

After leaving the Department of Revenue
could not locate my original amended
return dated Mar 14, 1989; I sent another
one dated Aug 21, 1993.

Jeff Miller has written the claim was
denied because it was received out of
the statute of limitation. Is there anything
that can be done

Thank you

Robert M Sargent USAF Ret
712 46 St So
Great Falls, MT 59405

EXAMINATION
January 24, 1995
NO. 7
BILL NO. SB 39

26 OCT. 1994

DEAR SIR:

I'VE READ AD IN BILLINGS
GAZETTE DATED 25 SEPT 1994
IN REGARDS TO TAX REFUND
FEDERAL RETIREES.

I AM CIVIL SERVICE AND
MILITARY RETIREE.

I RETIRED ON 1 DEC. 1976
AND HAVE PAYED INCOME TAX
TO THE STATE OF MONTANA
AND DID NOT RECEIVE ONE
CENT OF REFUND AS OF THIS
DATE.

William R Mills
620 TERRY AVE
BILLINGS MONT
59101

P.S. THANK YOU FOR ANYTHING
YOU MAY BE ABLE TO DO.

Rick Davis

CPA

121 North Main

Plentywood MT 59254

Dear Mr. Davis

I just read your article in the Whitefish Pilot about Federal Retirees and Montana tax refunds.

1. I retired from the United States Air Force on Jul 1, 1974.
2. I bought a home in Great Falls MT at 614 6th Ave N.
3. I Paid Montana Taxes all those years with the \$3610.00 Exemption
4. I understand that all of the retired should have been exempt! especially years 1983-1988.
5. To this date, I have not been

7. I believe I shall have some coming.
8. Would you please look into this for me.

Yours Truly
Joseph C. McFarland
Box 250
Columbia Falls MT

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 9

BILL NO. 3B39

STEVENSVILLE, MT.
November 10, 1994

DEAR MR. DARVIS

THE ENCLOSED IS OUR EXPERIENCE WITH THE FEDERAL RETIRED TAX
REFUND. I CONSIDER MYSELF TO HAVE BEEN SCREWED OVER THOROUGHLY.
PARDON THE JARGON; BUT, THAT IS HOW I SEE IT.

ANYWAY, I WILL ASSIST IN ANY MANNER I CAN. THANK YOU FOR
YOUR EFFORTS.

VERY SINCERELY


ED SPERRY
COL USAF (RET)

JUSTICE OF THE PEACE RAVALLI COUNTY

State of Montana

Marc Racicot, Governor

SEMI-ANNUAL

DATE January 24, 1995

EXHIBIT NO. 10

BILL NO. SB 39



Department of Revenue

Mick Robinson, Director

June 20, 1994

Income and
Miscellaneous Tax Division

Jeff Miller, Administrator

EDWARD G. SPERRY
5775 EASTSIDE HWY.
STEVENSVILLE MT 59870

RE: Amended Return(s) Received For Year(s)
1983 ✓ 1985 1987
1984 1986

Dear Federal Retiree:

In reviewing the amended claims filed because of the "Davis vs. Michigan" decision, I find you have not replied to our previous request for completed amended returns.

Under federal law, a claim for refund can be protected if a taxpayer submits a claim for unknown amount of refund which keeps the statute of limitations open for an extended period of time. This concept is known as a "protective claim". However, there is no similar Montana law that allows a "protective claim". Refunds can only be issued when an amended return is completely filled out.

Therefore, please use the enclosed forms to complete your amended return for those tax years checked above and return to us by July 6th, 1994. Unless we receive the completed amended returns by July 6th, we cannot process your claim since you did not request any refund.

If you have any questions, please call 444-3550 or write to me at the above address.

Brenda Thomas

Brenda Thomas, Tax Examiner II
Income & Miscellaneous Tax Division
Office Audit Section
P.O. Box 5805
Helena, MT 59604-5805
406/444-3550 or 444-0291

Enc: 2X forms

3 August 1994

Jeff Miller
MT Dept. of Revenue Income Tax Division
P. O. Box 5805
Helena, MT 59604

Dear Sir

Something has gone awry. We need your assistance to correct the status of our Federal retired income tax.

We contributed to the original suit on at least 2 occasions. We provided data in response to State tax officials whenever asked for.

In the past few months the Governor's decision to make a refund precipitated a letter from your offices requesting amended forms for years 83, 84, 85 86, and 87. We sent those within 10 days of the request.

Subsequently the State on three occasions requested the 1983 return. The State letter was clearly checked on only the 1983 date. We have attached a copy of your letter clearly showing why we only paid attention to 1983. We provided the amended return each time. The last time we sent it registered mail.

We have been informed by phone by your personnel (Scott) that you have 3 copies of our 83 form. This surely indicates something is amiss. We had no reason to submit a 83 return again and again except that they were requested. If this was the case does it not stand to reason that the other forms for the other years are lying somewhere in the bureaucracy.

We assumed all along that the returns for the other years were in order as 83 was what the state repeatedly requested.

Sir, please give this some objective thought we have done as instructed from day one. We have always paid our taxes. This affair has us deeply disturbed. We understand how things can go amiss in large offices however it is time for someone in authority to give us a hand.

We very sincerely thank you for your attention.

Edward G Sperry
Justice of the Peace Ravalli County
5163 East Side Hwy.
Stevensville, MT 59870

*copy
Sperry*

State of Montana

Marc Racicot, Governor

EXHIBIT 10
DATE 1-24-95
SB 39



Department of Revenue

Mick Robinson, Director

Income and
Miscellaneous Tax Division

Jeff Miller, Administrator

August 17, 1994

EDWARD G AND BETTY R SPERRY
5775 EASTSIDE HWY
STEVENSVILLE MT 59870

RE: Your August 3, 1994 letter - Federal Retiree Amended Returns

Dear Mr. and Mrs. Sperry:

The original 1983 amended return was received in our office on April 12, 1989. The 1983 amended return appears to be the only one timely filed. That amended return was incomplete. It showed only the figures as originally filed.

During the course of completing the project of issuing the refunds due to this lawsuit, the Department gave those taxpayers that had sent incomplete amended returns the opportunity to submit a completed form.

Please note in the letter dated April 14, 1994, only the 1983 is checked in the caption. Since that was the only year for which an amended return was on record, that was the only year that you could complete.

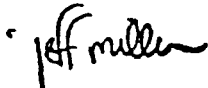
The Statute of Limitations is explicit related to the filing of amended returns. Each year on April 15th, a tax year falls outside of statute. For example, the 1983 amended return had to be received in our office on or before April 15, 1989, the 1984 should have been received on or before April 15, 1990, and so on. In an effort to advise taxpayers of this situation during the time the case was in court, the Department issued Public Service Announcements on radio, TV and in all major local newspapers.

Edward G. and Betty Sperry
August 17, 1994
Page 2

Since the 1983 is the only timely filed amended, that is the only year that can be refunded.

I hope I've answered your questions satisfactorily, but if you need further assistance or have other questions, feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "Jeff Miller". The signature is written in a cursive style with a large, stylized "J" and "M".

Jeff Miller, Administrator
Income and Miscellaneous Tax Division
406-444-2842

EXHIBIT 10
DATE 1-24-95
SB 39

J.G. SHOCKLEY

Attorney at Law

2386 Highway 93 · P.O. Box 608 · Victor, MT 59875-0608 · Phone: (406) 642-6647, (406) 642-3792

September 12, 1994

Income and Miscellaneous Tax Division
Attn: Jeff Miller, Administrator
P.O. Box 202701
Helena, Montana 59620-2701

RE: Edward G. and Betty R. Sperry: Federal Retiree Amended
Returns

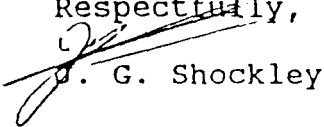
Dear Mr. Miller:

Mr. and Mrs. Sperry are friends of mine and I have agreed to correspond with you on their problem. Their problem is that your Division has refused to refund taxes paid under protest by the Sperrys; Mr. Sperry is a retired Air Force officer and falls within "*Davis v. Michigan*". I was in Helena the 8th and 9th of this month and called your office, but you were not available when I called.

The Sperry's sent to your Division their Federal Retiree Amended Returns for the years 1983 through 1987, inclusive, in a timely fashion. They have provided to your office copies of the Amended Returns when the Division said that they had no record of such filings, except for the year 1983. It is my position that if your Division denies that it received the Sperrys' Amended Returns for 1984 through 1987 that in the event of trial the trier of fact will have to decide who is accurate - the Sperrys or your Department. In other words, the Division's assertion is not dispositive of the issue of whether or not the Amended returns were sent in the proper time frame.

Please give me your position in regard to the evidence the Sperrys have provided to your Division, that is their copies of the Amended Returns for 1984 through 1987 as proof of the submission of those documents in a timely fashion? Also, please advise me if there have been any law suits filed by persons who disagree with your Division's record keeping in regard to whether or not Amended Returns were filed by retired service members?

Respectfully,


J. G. Shockley

cc: Mr. & Mrs. Sperry

State of Montana

Marc Racicot, Governor



Department of Revenue

Mick Robinson, Director

September 28, 1994

Income and Miscellaneous Tax Division

Jeff Miller, Administrator

J G SHOCKLEY
P O BOX 608
VICTOR MT 59875-0608

RE: Edward G. and Betty R. Sperry
Federal Retiree Amended Returns

Dear Mr. Shockley;

I have again researched the Sperry's file and found the information shown in the letter of August 17, 1994 to be accurate.

When the Department became aware of the Davis vs. Michigan case and started receiving telephone calls from taxpayers involved in the issue, the persons answering the phones informed the taxpayers what they needed to do.

The first step was to file the 1983 amended return as soon as possible, since the 1983 was in danger of going out of Statute. Within 6 months, when the case was not yet settled, the Department sent denial letters to the taxpayers that had filed the amended returns. The taxpayers were advised of their right to appeal and a special appeal form was sent. In order to protect their appeal, the form had to be returned to our office within 10 days.

Each time an amended return was received, denial letters and appeal forms were sent, again with a time limit for returning them to our office.

The Sperrys submitted a 1983 amended return, signed April 9, 1989. It was received in our office on April 12, 1989. The return was incomplete, but the Department held it pending the finalization of the case.

When a settlement was reached, the amended returns on file were sorted and reviewed. Taxpayers like the Sperrys who had sent in incomplete amended returns, were given the opportunity to complete the return and send it back to our office. The Sperrys returned the 1983 amended return to us, still incomplete. One of our examiners completed the math and allowed the requested refund.

J. G. Shockley

EXHIBIT 10
DATE 1-24-95
1 SB 39

J. G. Shockley
RE: Edward G. and Betty Sperry
September 28, 1994
Page 2

Consistent with the single amended return on record, the Department has only one appeal form for the Sperrys. The amended returns for tax years 1984 through 1987 were not received in our office until well past the Statute of Limitations.

It is unlikely that the amended returns would have been separated at the time of receipt. It is the Department policy to keep documents that are received at the same time together. Since we have record of the 1983 having been received in 1989, if other returns were sent with it, they would remain in tact with the file.

If the Sperrys have documentation that all of the returns were sent at the same time; a certified mail receipt, or other documentation, please provide a copy and the returns will again be reviewed and refunds processed if appropriate.

Until then, I have no choice but to disallow the refund claims since it appears the returns were not filed timely.

At this time, no lawsuits have been filed by other retirees who have had the amended returns denied because of not filing timely.

I hope that I have answered your questions satisfactorily, but if you need further assistance, feel free to call or write.

Sincerely,


Jeff Miller, Administrator
Income and Miscellaneous Tax Division
406-444-2842

CC: Edward G. and Betty R. Sperry

Tade Accounting
Certified Public Accountants

SENATE TAXATION

DATE *January 24, 1995*

EXHIBIT *11* (406) 487-2888

BILL NO. *SB 39* 487-2889

124 Main Street
P.O. Box 689

Scobey, Montana 59263

Darrel Tade, CPA

MEMBER:

Montana Society of CPA's
American Institute of CPA's

RE: Taxation of Federal Retiree Income

To Whom It May Concern:

Please be aware that I contacted the Montana Department of Revenue with regards to filing requirements necessary to preserve federal retirees excludable income for state income tax purposes. Although I did not document the date and time, I clearly recall being told that I need not file amended returns because the state would waive the statute of limitations regarding excludable federal retirement income.

Based upon what I was told, I did not file anything in anticipation of a clearly defined "game plan" to be issued by the Department of Revenue. I was surprised and disturbed to find that the Department later applied the statute of limitations in denying the retirement income exclusion.

If there are any questions regarding this statement, please do not hesitate to contact me at the above address.

Sincerely

Darrel Tade
Darrel Tade

December 19, 1994

2600 E. Ramen RD # 510

Bullhead City, AZ 86442

SENATE TAXATION

Nov 1, 1994 DATE January 24, 1995

ENCL NO. 12

BILL NO. 3839

Dear Mr. Darnis:

After receiving your letter re:
the incorrectly taxation of retired
Federal employees, I forwarded
copies of the letter to my accountant,
Jim Shereck, and to Grover Auctad,
the President of the NARFE Chapter
in Ft. Falls, asking that Mr. Auctad
bring it up at the next NARFE
meeting.

I'm enclosing an extract of the
State Statute for your information.
I am wondering that if all else
fails if we should go the route
that Iowa may go and handle the
appeal as a claim against the State
(if in MT. the statute of limitations
does not apply).

I would appreciate any informa-
tion in the future you may have
regarding this situation. I'll be at 2
above address thru April '95, at teleph
(602) 758-4035.

Thanks.

George McConley

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 13

BILL NO. SB 39

Box 316

Hardin, Montana 59034

Rick Darvis, CPA
121 N. Main Street
Plentywood, Montana 59254

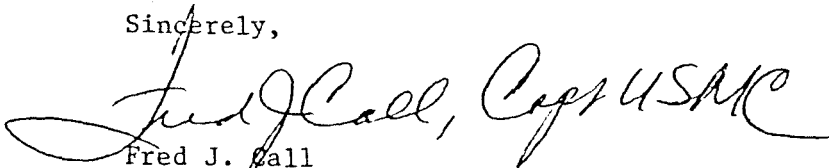
RE: Tax Refund for Retirees

TO WHOM IT MAY CONCERN:

This letter is to protest the manner in which the State of Montana handled the refund due to the Federal Retirees. The U.S. Supreme Court ruled the State of Montana incorrectly taxed our retirement and we were due a refund.

I received a partial refund and I feel I am entitled to the full amount.

Sincerely,

A handwritten signature in cursive script that reads "Fred J. Call, Capt USMC". The signature is written in dark ink and is positioned above the typed name and title.

Fred J. Call
Capt. USMC
491-38-6748

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 14

BILL NO. SB 39

11/11/94

Dear Mr. Davis -

Bill Klatt, my CPA, has sent your letter on to me. My mother was a federal retiree. I was not aware until receiving your letter that the State had failed to refund all the money owed. I certainly feel that they should have and according to the Supreme Court decision as I understand it there would be little excuse for only a partial refund.

I want to encourage you in your endeavours to get this money completely refunded - 100%

Sincerely,
Jane J. Lyden
Box 295
Ennis, MT 59729

STATEMENT

DATE January 24, 1995

EXHIBIT NO. 15

BILL NO. SB 39

1034 Terry Avenue
Billings, MT 59102-5440
September 26, 1994

Mr. Rick Darvis, CPA
121 N. Main St.
Plentywood, MT 59254

Dear Mr. Darvis:

Referring to your ad in the Billings Gazette yesterday, September 25th, I am one of the federal retirees who did not receive a full refund on taxes incorrectly collected by the State of Montana.

Although I did receive a refund for 1988, I was told I did not file an amended tax return in time for the other years.

I retired from the Billings Post Office in 1973 as a Rural Mail Carrier. My Social Security No. is 701-12-5238. I would appreciate hearing from you.

Yours truly,

Thomas B. Martin

Thomas B. Martin

SENATE JOURNAL
DATE January 24, 1995
E. JOURNAL NO. 16
BILL NO. SB 39

Dear Mr. Davis,

No, I did not get all my tax refunds. I did get 1988 because I think there was good notification on that one. I called the revenue dept & was told if I hadn't filed the necessary amended returns, I had no recourse. I told him I would have filed the returns if I had known it was necessary. An accounting firm here was doing my taxes & they did not inform me about filing amended returns. Now they say they didn't know. There are two other firms here that have told me the same thing.

The revenue dept. now said maybe our only hope was to have the next legislature open this up again so we could file the necessary returns. I talked to two local legislators & they couldn't believe what happened because they both said they thought that they had for sure voted to appropriate money to pay everyone.

I think there are many unhappy retirees. Good luck on whatever you are trying to do and

Thank You

Wesley M. Larsen

2303 Wilcox Park Dr.
N. T. N. T.

JERRY D. HANSEN

Certified Public Accountant

Masters of Business Administration

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 17

BILL NO. SB 39

TW One, Suite 214
404 North 31st Street
P. O. Box 293
Billings, MT 59103
Office: (406) 255-7461
Home: (406) 652-0479

October 14, 1994

Rick Darvis, CPA
121 North Main Street
Plentywood, MT 59254

Dear Rick:

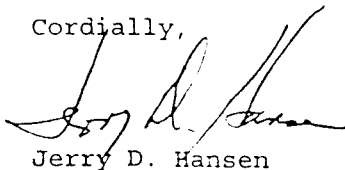
I agree with your position that any taxes collected by the State of Montana from Federal retirees should be fully refunded immediately. When the State assesses for back taxes, it adds interest and penalties. The State should follow it's own example: refund the taxes, along with interest and penalty. To take any other position is un-supportable. If the State cannot make prompt refunds it should declare bankruptcy.

This is only one example of why the State's current financing system is out of step with reality. The Old Fund Liability Tax unfairly assesses today workers and business owners to pay for past liabilities. And now we read that the State Capitol needs extensive repairs because preventative maintenance was not performed. These examples illustrate why the State's short-term "cash basis" financing system is out of step with the realities of the 1990s. When there is a cash "surplus" the State spends it. When a cash "short-fall" exists in the current year the system simply delays payments and shifts the "short-fall" to the next year. In other words, the State shifts mistakes of the past to current and future taxpayers. The State's position on delaying refunds is that these taxes were spent in the year collected and no money is available for refunds. The fact is that the State failed to balance the budget in the years it collected the taxes.

The only way the State can resolve these problems is to adopt operating procedures that respond to the realities of the 1990s and create a financing environment that takes a long-term perspective.

Thank you for spear heading this issue.

Cordially,



Jerry D. Hansen



VELTKAMP, STANNEBEIN & BATESON
A Professional Corporation
CERTIFIED PUBLIC ACCOUNTANTS

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 18

FILE NO. SB 39
220 WEST LAMME, P.O. BOX 1965
BOZEMAN, MONTANA 59771-1965
PHONE 406-587-1277
FAX 406-587-8794

Oct 24, 1994

Rick Darvis, CPA
121 North Main Street
Plentywood, MT 59254

Dear Mr. Darvis:

I totally agree with you. What the State has done is a grave injustice. In regards to Federal Retirees, we were filing the amended returns on a year to year basis, awaiting the outcome. After the case was lost in the Montana Supreme Court, we discontinued filing amended returns, as our firm does not believe in creating unnecessary accounting fees.

Our clients are receiving partial refunds, but not the entire amount they should be entitled to receive. If we had filed additional claims, our clients would complain about work being done on an issue that was, at best, remote. Now our clients are saying, "Why didn't you do your job and file those claims?"

In addition, we had some clients that came to us, after the fact, without having filed claims. They are in the position of not receiving any refunds. Yet, their situation is no different than those who did file claims.

We strongly feel that if the State were going to concede this issue after winning it in the Supreme Court, the State should treat all Federal Retirees equally and allow them to receive their refunds.

Please contact me if there is any additional information you need from us. We appreciate your efforts in this endeavor and offer our support.

Sincerely Yours,

Harry F. Stannebein
Certified Public Accountant



SENATE TAXATION

DATE January 24, 1995EXHIBIT NO. 19BILL NO. SB 39

S O R E N S O N & H A N S O N

CERTIFIED PUBLIC ACCOUNTANTS

FAX (406) 755-6661

126 FIRST AVENUE WEST • P.O. BOX 1776 • KALISPELL, MT 59903-1776

PHONE (406) 755-6655

October 13, 1994

Rick Darvis, CPA
121 North Main Street
Plentywood, MT 59254

Dear Rick:

A Federal Retiree gave me your letter about Montana Federal Retirees and the Davis case.

Please be advised this firm does a few federal retirees that Montana has illegally collected taxes from. I have enclosed a pencil worksheet of six of these taxpayers. I am also photocopying for your records some letters I have already written pertaining to this same thing.

Also Lawrence Allen has had numerous calls from other CPA's and has referred the calls to myself as if I were an expert on this case, of which I am not. I am just concerned that my taxpayers are getting taken to the cleaners by the State of Montana.

Two CPA's that have called me and left me their number said to call them with any other information or questions. Their names are as follows:

Curt Ingold
Missoula, Montana
728-3134

Joe Ivanich
Butte, Montana
723-5454 ext 72128

Ivanich is a CPA in Butte, I believe that he works at Montana Power and does tax returns on the side.

If I could be of any help to you, please let me know.

Very truly yours,

KARL E. SORENSON
Sorenson & Hanson
Certified Public Accountants



Junkermier • Clark
Campanella • Stevens • P.C.

Certified Public Accountants

Ward F. Junkermier, CPA
George L. Campanella, CPA
Rick A. Frost, CPA
Robert E. Nebel, CPA
Joseph F. Shevlin, CPA
Ronald A. Taylor, CPA
Kent A. Borglum, CPA
Terry L. Alborn, CPA

Walter J. Kero, CPA
Jerry L. Lehman, CPA
Daniel J. Konen, CPA
James V. Galipeau, CPA
Robert E. Geis, CPA
Daniel J. Eigeman, CPA
Gerald J. Hanson, CPA

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 28

BILL NO. SB 39

October 18, 1994

Rick Darvis, CPA
408 Lasater - Box 291
Plentywood, MT 59254

Dear Rick,

Thank you for your recent letter with regards to federal retirees. As you indicated in your letter we will be sending a copy of your letter to some of our clients who in 1991 and 1992 decided not to file claims for the tax years 1986 and 1987. If you remember back at that time the Montana Supreme Court decided on the issue of federal retirees that they were not entitled to federal refunds on a retroactive basis. As a result of that ruling we advised our clients that the decision was up to them whether to keep filing claims for a refund on retroactive tax years. Some of our clients did and some didn't.

One of our clients is concerned about this situation and rightfully so. The concern about this situation has to do with the governor's out of court settlement with the class action lawsuit. The resulting position by the Montana Department of Revenue is not to honor any claims not timely filed. As you know allegations have been made about information the Department of Revenue issued in regards to filing claims. We have spoke with other CPA's and the Department of Revenue's position at one time was to not file claims as they were waiting for some legal decisions to be made before they would process any claims. Any such contentions in a court of law would be a question of our word versus the Department of Revenue's word in such a situation. Therefore any class action would be controversial and difficult. However I agree that if the Governor was going to pay refunds to those federal retirees who had filed claims and had been part of the class action lawsuit, then all such taxpayers should be treated equally.

Page 2
Rick Darvis
October 18, 1994

We will be glad to lend help and assistance that we can in your efforts.

Best Regards,

JUNKERMIER, CLARK, CAMPANELLA, STEVENS, PC
Certified Public Accountants

A handwritten signature in cursive script, reading "Walter J. Kero".

Walter J. Kero, CPA
Shareholder

WJK/ld
cc: JCCS Tax Committee
Montana Society of CPA's

DALLAS A. ROOTS
CERTIFIED PUBLIC ACCOUNTANT
127 McLeod Street
Telephone: 932-5322
BIG TIMBER, MONTANA 59011

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 21

BILL NO. SB 39

11/17/94

Rick Darvis, CPA
Darvis Accounting PC
PO Box 291
Plentywood, MT 59254

In Re: Federal Retiree Refunds
1983 to 1988

Dear Rick:

Thank you for your efforts to get the ball rolling to request the Montana Legislature to authorize refund of taxes erroneously paid to the State of Montana for the years 1983 to 1988.

Per Bob Turner of the Dept. of Revenue at the Montana State Tax Conference held on 11/16/94, there are still approximately 1,500 federal retirees who could claim approximately 7.8 million dollars of overpaid taxes. The Dept. has already paid 5,600 federal retirees 8.7 million for 1983 to 1987 plus interest 2 million, and another 4 million for 1988 refunds.

There was a lot of confusion as to whether claims would be allowed since it was accepted and required procedure to exclude only \$3,600 of Federal civil service pensions, and to exclude all of state, county, and local pensions. I did test one amended return in April 1989 for 1983 to see if the state would allow refunds. The amended return claim was denied with instructions to appeal standard language. As the claim was for only \$50, the client did not wish to appeal as the time to appeal would eat up the \$50, and still no guarantee of a refund. I got the message that the state would not honor refund claims on this retiree question without an appeal and did not pursue further refund claims. Now that the state agreed to pay the erroneous taxes collected, I am requesting that the same treatment be accorded to all federal retirees who paid state taxes in error. The instructions for 1989 Montana state that civil service and military pensions will be 100% excludable; however for prior years, no refunds of taxes will be made until a decision is rendered by Montana courts. It states that an amended return may be filed but refunds will be held until the decision by the court. The 1990 instructions state nearly the same with the addition that District Judge Sherlock had sustained the Department's position that no refunds would be made and that the matter had been appealed to the Montana Supreme Court.

Since noone knew how refund claims would be treated until the Montana Supreme Court ruled in 1993 that they were allowable, it requires retroactive tax returns preparation. This is much like retroactive tax increases which should be illegal but happened in August 1993 when the federal tax increase was made retroactive back to the first of the 1993.

As a matter of fairness to the federal retirees who could not know the results of the ^{MT} Supreme Court decision until after it was made in 1993, request they be allowed additional time to claim the refund of erroneous

James E. Bell
Certified Public Accountant
P.O. Box 1955
Kalispell, Montana 59901

SENATE TAXATION
DATE January 24, 1995
EXHIBIT NO. 22
BILL NO. SB 39

Telephone 406-755-5009

October 17, 1994

Rick Darvis, CPA
121 North Main Street
Plentywood, Montana 59254

Dear Mr. Darvis:

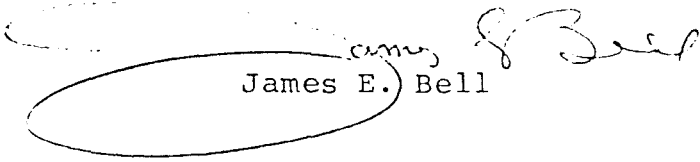
I could not agree with you more concerning Montana Department Revenue's inept handling of the refunding of retirement income incorrectly taxed on the income tax returns of the federal retirees.

Only those retirees that filed timely "amended returns" were eligible to receive the refunds. All of the retirees that did not file the "amended returns" timely because of not having been properly informed are being told by the Montana Department of Revenue their attempts at applying for refunds will be for naught.

I am a subscriber to the CCH Montana State Tax Reporter and when this was being published by Bender's one of their updates informed us that Montana does recognize their responsibility to refund the federal retirees the state could not afford it and they would have to go to the taxpayers for the money so therefore they would not refund the money. This kind of negative assurances, in my situation, caused me not to file "amended returns" because of the exercise in futility. Nothing that I received from the state indicated anything else until it was too late to file "timely amended returns".

Thank you for your interest in this matter.

Sincerely,


James E. Bell

JEB/bm

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 23

BILL NO. SB 39

November 1, 1994

TO WHOM IT MAY CONCERN:

I am a tax preparer in Libby, Montana and have done the tax returns for James V. Racicot, 6766 Pipe Creek Rd., Libby, Montana, SS# 517 36 4773 for several years.

He has a military retirement pension and each year we questioned the exclusion on the Montana State return. We contacted the state office each year and we were advised that the years 1985 through 1988 we were only allowed the \$3600.00 exclusion, and nothing could be done about it until it was decided by the courts. Due to this information received, we did not file an amended return for these years. Now we find that an amended one could have been filed, but now it is over the limit of being timely filed. I feel this is very wrong. If I hadn't checked with the state it might have been our fault, but according to them this was not an option.

At this point in time I do feel that he should be entitled to file amended returns for these years.

Irene Loveless

Irene Loveless, Tax Preparer
P.O.Box 44
Libby, Mt. 59923

406 293 9091

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 24

Robert A. Schmidt ID NO. 50 39

Nita J. Schmidt

P.O. Box 941

Hamilton, MT 59840

November 28, 1994

Clark Darvis CPA
1 North Main Street
Helena, MT 59254

Dear Sir:

We are writing you in regards to the Civil Service Taxation
for years 1982 - 1987.

We think it is the duty of the State of Montana to pay us
a refund for those years.

Due to a misunderstanding, the amended papers were not filed.
We feel it should not make any difference if they were filed
on time or not. The State still owes the money illegally
taxed.

Sincerely,



Robert A. Schmidt



Nita J. Schmidt

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 25

BILL NO. SB 39

2302 Highland St.
Bozeman, MT 59715
Nov. 30, 1994

Rick Darvis
121 N. Main St.
Plentywood, MT 59254

Dear Mr. Darvis:

The subject of income tax refunds for Montana federal retirees who failed to "timely file" amended tax returns was discussed Monday by the Bozeman NARFE chapter.

The chapter voted to support your effort to obtain such refunds, although no form was given to the type of support.

The September, October and November issues of the national NARFE magazine, "Retirement Life," give in the "State Stats" section a summary of pending actions by states that first refused to make refunds and then set up "timely filing" or similar roadblocks to full payments.

If you have questions concerning Bozeman NARFE's actions, you can contact the treasurer, Frank Calvin, 302 N. 16th, Bozeman 59715 (587-3562).

Sincerely,

Bill Boosley

SENATE TAXATION
DATE January 24, 1995
EXHIBIT NO. 26
BILL NO. SB 39


November 29 1994

Mr. Rick Darvis, CPA

Dear Sir:

As a Tax Practitioner, I feel that the State ; of Montana
should pay the refund of tax paid on the Civil Service
retirement for the past years.
Even tho the amended returns were not filed.

Yours Truly,


Donald Worm
DWB:jw

SENATE TAXATION

DATE January 24, 1995

SEARCH NO. 27

P O Box 125 BILL NO. SB 39

Monarch, MT 59463

December 1, 1994

Director

Montana Dept of Revenue
125 North Roberts
Helena, MT 59604-5805

Dear Sir,

The State Federation of NARFE has recently advised us that those retirees who did not file amended returns in time to meet the statute of limitations for (in our case) the years 1984,85,86 and 87 should write to you explaining "our circumstances". The following is our attempt to do that.

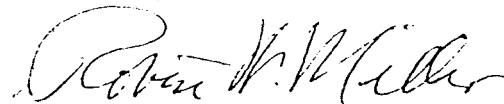
Since we live on a ranch in the Little Belts, we must drive 10 miles for the mail, we can not get a daily newspaper and we have not attended local NARFE Chapter meetings. We attended the May 4, 1994 hearing in Helena and we strongly disagree with the statement made by the State Federation Rep. for NARFE that "If retirees did not know about filing amended returns by reading the newspapers or thru their tax consultant that was their tough luck".

The only information we received on "Federal Refund Claims" for the years 83 - 87 incl. was the 9/29/89 letter from your office. In the first paragraph you said that "Earlier this year you filed a claim for refund(s)"---"and we deny your claim for refund." In the sixth paragraph you said that if we disagree with the denial we should file an appeal within 30 days of the date of your letter. The appeal would be held awaiting the outcome of the Sheehy case. We filed the appeal you provided on October 1, 1989.

- Based on the above, would'nt you agree that, from our standpoint, we took the necessary steps to get the refunds depending on the Court's final decision?

We received refunds for the years 1983 and 1988 and we thank you for those. You are still holding \$2621.00 of our money for the years 1984 thru 1987.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert W. Miller".

Robert W. Miller

P O Box 125

Monarch MT 59463

Encl. Dept of Revenue 9/29/89

SEMI-ANNUAL TAXATION

January 24, 1995
28

SB 39

Stanford, Cal.
Nov. 3, 1994

Dear Rick:

I filed all my returns
for 83 through 89 and they
refused to pay for 86 & 87.
Letter attached.

It sure doesn't seem
right. I sure never seen
anything about a statute of
limitations of five years
until this letter.

Good Luck.

Sincerely,
Myron Zador

State of Montana

Marc Racicot, Governor



Department of Revenue

Mick Robinson, Director

Income and
Miscellaneous Tax Division

Jeff Miller, Administrator

April 6, 1994

MYRON C HAKER
P O BOX 1
STANFORD MT 59479

RE: Amended Return(s) Received For Year(s) 1986 1987

Dear Federal Retiree:

In a recent review of the amended claims filed because of the "Davis vs. Michigan" decision, it came to our attention that your above amended return(s) were received after the statute of limitations for that year and cannot be accepted as timely filed.

Under Montana law, an amended refund can be filed five years after the original due date of the return. The statute of limitations for the latest year, 1987, was April 15, 1993 which is five years after the due date of April 15, 1988. All the other years, 1983 through 1986, expired five years after their due date which was prior to April 15, 1993. Therefore, the above amended return(s) are disallowed since it was not received within the statute of limitations.

If you have any questions, please call 444-2686 or write to the above address.

Sincerely,

A handwritten signature in cursive script that reads "Jeff Miller".

Jeff Miller, Administrator
Income & Miscellaneous Tax Division
P. O. Box 5805
Helena, MT 59604-5805
(406) 444-2686

January 24, 1995
29

BILL NO. SB 39

NORTH DAKOTA

Lewiston, MI 49756

CDR USN Ret.

TO: STATE OF MONTANA

VIA: RICK DARVIS CPA

121 N. MAIN ST.

PLENTYWOOD, MT 59254

Subj: Federal Retirees Refund

ALTHOUGH I HAVE TEMPORARILY MOVED FROM MONTANA, I WAS SUBJECT TO THE PERIOD OF TIME IN QUESTION.

I THINK WE ALL EXPRESS OUR GRATITUDE FOR TAKING THE INITIATIVE TO EXPOSE THE ALREADY CORRUPT MT. LEGISLATURE.

I MOST HEARTILY SUPPORT YOUR MOVEMENT AND WOULD OFFER MY SERVICES IF I STILL RESIDED IN MT. I URGE YOU TO CONTINUE YOUR COURSE OF ACTION TO THE END.

IT WAS BLASPHEMOUS THAT AFTER ONE YEAR OF NO TAX DUE TO THE CLASS ACTION SUIT, THE MT. LEGISLATURE FOUND A WAY TO CIRCUMVENT THE LAW IN ORDER TO TAX VETERANS AGAIN. I HAVE 24 YRS AND WAS SHOT AT DAILY DURING VIETNAM AND OUR SO CALLED BENEFITS HAVE BEEN DILUTED TO PRACTICALLY NOTHING. I CANNOT EVEN GO TO A VA HOSPITAL BECAUSE I HAVE NO DISABILITY.

BY THE WAY I DO NOT PAY STATE INCOME TAX IN THE STATE OF MICHIGAN ON MY RETIRED GRATUITY. THEY HONOR SERVICEMEN IN THE

I hope You can gain support from not only the RETIREES but also other ACCOUNTANTS AND ATTORNEYS in order to get Your message across to the state.

I wonder if there is any way to have the state reverse the law wherein since they now tax state employees, they can legally tax veterans. Of course they do not mention that when they started taxing state employees, they also gave them a raise to compensate for the tax.

I am with You as I know many other veterans are as well. I request that (if not too inconvenient) we be kept abreast of any significant developments on this issue.

Thank You very much

For Ref: My CPA is Robert Chrysler, Bigfork, MT

V.R.
Wm W. Shorge

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 30

MONTANA REALTY

PERSONALIZES YOUR NEEDS - LOCAL/NATION WIDE
BIG SKY COUNTRY

PHONE (406) 453-2454
FAX (406) 453-2456

P.O. BOX 6088
GREAT FALLS, MONTANA 59406

MEMBER MULTIPLE LISTING SERVICE
2321 - 10TH AVE. SOUTH

November 8, 1994

Mr. Rick Darvis, CPA
121 N. Main Street
Plentywood, MT, 59254

Dear Mr. Darvis:

The State of Montana rejected my refund of year 1987 because I filed too late, March 7, 1994. Amount due without interest is \$1,660.00.

Please inform me as to the information or material you may need to pursue the refunding.

Sincerely yours,


William Pena
Broker/Owner

Rick Davis, CPA
121 North Main Street
Plentywood, MT. 59254

SENATE TAXATION

DATE January 24, 95 W. A. Wohlin
EXHIBIT NO. 31 3113 Beech Ave
BILL NO. SB 39 Billings, MT. 59102
11-04-94

Sir:

State of Montana, Dept. of Revenue advised tax preparers to stop submitting amended returns for federal retirees because they would not refund illegally collected taxes. Class action suit determined that the illegally collected taxes must be refunded. State Dept. of Revenue says they will not refund illegally collected taxes because timely amended taxes returns were not submitted by the victims of injustice.

Governments are needed to serve the people; not to do the poor things.

Sincerely,

W. A. Wohlin

II

None of us want to put the state in
bind, but of air is fair. Even credit
- be applied against future state income
it would be better than not being
imburied at all.

Count me in as a Federal Employee
who wants that inequity corrected.

Sincerely,
Callie Chamberlain
Wooden Bay
61 Jackson Dr.
Bigfork, Mont. 59911
1-406-837-4192

Dear Mr. Dennis:

I retired as a Rural Carrier in 1983
after 31 years of service and am one of the
Federal Retirees who were not reimbursed
for taxes collected by the State of Montana.

Each year I asked our accountant to file
for a refund and each time he assured me
that it was not necessary to do so, that
the State would let him know when to file.
Even yet, my accountant (Terry Johnson of
Jordan & Shuter in Kalispell) says there is
nothing he can do - but my feeling is
that he should try to do something.

It is certainly not fair to pay some
retirees and cut the rest of us out on a
technicality. I called the Revenue Dept. in
Helena and they informed me the time limit
had run out. How can the time limit
run out when one has not been informed of
file? At least I was not informed or I
would have done so.

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 32

BILL NO. SB 39

Jan 1, 1994
Bigfork, Mont. 59911

Dear Riis,

25 Oct 1994
SENATE TAXATION
DATE January 24, 1995
EXHIBIT NO. 33
BILL NO. SB 39

I am one of the retired federal employees that was incorrectly taxed by the State of Montana, and have not received my full refund.

After hearing about the ruling on the unlawful taxing of my retired income, I had a return filed for 1984, I could not file for 1983 because it was over 5 years. I then received a letter from the state telling me not to file for the remaining years, and I would be notified when to file, I am unable to find the letter, and the state tells me it is too late. I have received a refund for 1984 and 1988.

If you need any more information please contact me

Wen Kibbhart Home 453-4143

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 34

SB 39
1704 1ST ST. SO.

GREAT FALLS, MT. 59405

Dear Mr. Farris:

In regards to your notice
in the Paper on Taxes on Federal
retiree's income.

I only received refund for 1988.

at that time they said not to
file for 1987 or 1990, but to wait
till the case was settled.

What should I do now?

Thank you very much.

Sincerely
Carl E. Straight

Ennis, Montana

Oct. 27, 1994

Allen Nicklowski C.P.A.

We require to have better
concerning, especially, collected tax
from Indian Nations, directed to 10th
C. Hall C.P.A.

I, personally feel, the state should
refund all 3 years of incorrectly
collected tax. I actually received '83,
'84, '85 & '88, tax years refunded. '86, '87
were denied, due to the Statute of
Limitations. The reason for not paying
for years '84 & '87, District Judge (?) ruled
that the State of Montana did not have
to refund the illegally collected tax.

I feel we were discriminated
against for following the law, & not
paying for '84 & '87, I also feel that if
we paid for the first year of the
transaction of years, all of those should
be included in the Statute of Limitations.
Some states have overruled the

Statute of Limitations & refunded all
illegally collected taxes to Indian Nations.
I support your feeling as it is, in
fact, the most, as well as other nations,
achieve this full tax refund.

Respectfully,
at

Thomas J. Wilkins

P.O. Box 171

Ennis, MT

SENATE TAXATION

DATE

EXHIBIT NO. 35

BILL NO. SB 39

January 24, 1995

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 36

BILL NO. SB 39

10/16/94

Sir

I am writing to you in
Regards to the money that
The STATE took from us
Federal Retirees, Enclosed is
a list of what they would not
pay, I called the Dept of Rev.
& they told me that I did not
file in time to receive payment
for all the years listed, I told
them that I had received notice
not to file anymore returns
until further notice, they stated
that they never sent any such
notice. I tried to find the

I would like to have you
Take over my case, I would
be willing to a 10% Fee of
whatever I Receive from the
Dept of Rev.

Thank you
Fred Buchanan

Enclosed

- 3 copies of Returns 85-AL-AL
- 1 Self Stamped Envelope
- 1 copy claim form

Fred Buchanan
613 Sacajawea Dr.
Great Falls MD 59404

406-767-0812

SENATE TAXATION

DATE January 24, 1995EXHIBIT NO. 37DIS NO SG 39Busley Mt.

Oct. 19, 1994

Rick Davis CPA

Plenty wood, mt.

Dear Sir:

My name is E. L. King
Box 93, Busley, Mt. 59016
SSNO. 517-26-4432

I was employed with
B.I.A. for 33 years, and
retired in the Eighties.
Every year I still pay for
my retirement, which is
with held from my monthly
check.

I am wondering if
I am entitled to a refund.
That was incorrectly, taped
from my retirement; from State
of Montana.

Thank you
E. L. King

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 38

BILL NO. SB39

19 October 1994
William M. Raynes
1609-3rd. Ave. North
Great Falls, Mt. 59401

Mr. Rick Darvis
408 Lasater Box 291
Plentywood, Mt. 59254

Mr. Darvis,

I received a copy of your letter addressed to my accountant, Peterson & Assoc. of Great Falls, in regards to the incorrect taxing of Montana Federal retirees.

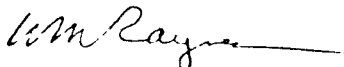
I retired from the Montana National Guard in September of 1985. In watching the Great Falls Tribune and the local T.V. stations, I have received a minimum of information as to any return that I am entitled to by the decision of the court system. In seeing or hearing of any information by the news media, I have contacted my accountant requesting additional info and their office has had to look into the matter as they have not had the correct info at hand.

I wish to have refunded to me any over charging that the State of Montana has done to me on my Federal Retirement as soon as possible. I am sixty eight years of age and am living on about 450.00 Social Security and about 500.00 from my Guard Retirement. My wife receives about 470.00 from Social Security also.

If I owed any monies to the State of Montana for taxes, the State would go to any means to collect those monies. The time element would not be as long as it has been in the State delaying paying the monies owed to the Federal Retiree.

If I can be of any further service in this matter please feel free to call or write me.

Respectfully,



William M. Raynes
406-454-2986

Copies 1- Mr. Darvis
1- File

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 39

BILL NO. SB 39

October 18, 1994

Mr. Rick Darvis, CPA
121 North Main Street
Plentywood, Mt 59254

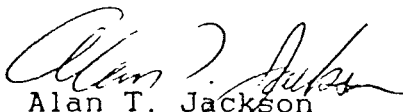
Dear Mr. Darvis:

I have been unfairly discriminated against by the State of Montana. They illegally taxed my federal retirement income. I applied for a refund and was told that because of the statute of limitations I can not recieve payment.

Please see what you can do to make the State honor the full amount of my refund.

As a retiree now on a fixed income I greatly appreciate your efforts.

Sincerely,


Alan T. Jackson
545-42-6671
1413 Maple Drive
Bozeman, Montana
59715

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 40

BILL NO. SB 39

S.S. Van 117

Bigfork, MT

MS. 21, 1991

Miss Linda
Certified Public Accountant
1600 1st St. S.
Helena, MT 59604

Dear Mr. Jarvis,

I have received a copy of your letter to Robert A. Chrysler, our accountant here in Bigfork, concerning the Civil Service retirees refunds and the State of Montana. I have never been involved with a love mixed up issue.

I am the step-daughter of James A. McIndrew, the retiree (deceased 12-24-85). My mother, Eva Mae McIndrew, as the wife of James A. McIndrew, received his pension retirement check until her death 5-3-86. I, along with my brother Donald E. Tschler, Personal Representative of our mother's estate. In behalf of her estate, I filled out a form and sent it in stating the retiree's name, and how I was related to him, as well as the information concerning her death. As I best remember this, at this point the Legislature had not acted on the possibility of making a refund to the Federal retirees, but in the event they did and it was favorable the form had to be sent in, which I did. Well, you know the story the refund was turned down. So, in my mind my efforts were in vain. At last Governor Racicot got some refunds made.

But, in spite of the Legislature's denial of making any refunds, the issue did not die. So, I made several telephone calls to Helena only to receive mixed up information, such as, the Statute of Limitation had run out for filing amended returns. Now in the world is one to know when to file. In the first place my step-father filed his Income tax due Montana state on time, and paid his taxes in good faith. Why oh why isn't the state acting likewise? I feel very strongly about this, the door swings both ways, as fair is fair.

Bob Chrysler prepared our Income tax for us April 14, 1986, as well as that final one for mother, and I signed an amended return for 1984 at that time, and all was sent to the Department of Revenue in Helena. All I ever received from Helena was for 1986, long after both the death of my folks. I certainly make no claim for the years beyond the death of James A. and Eva Mae McIndrew. But, I do feel the years 1981, (1984-I received a refund for \$57.00 for 1984), 1985, and 8 months for 1986. According to Mr. Miller, Department of Revenue and the Governor, as there were no amended returns for the above years mentioned no refunds can be made, unless the Legislature passes a new law. Wow, huh!!

I've tried to explain as best I remember. Any help you might be able to come up with concerning the problem for my Federal retirees is most important. I feel the Department of Revenue failed many of us as well as to be helpful. Please let us know your intentions and where we go from here.

Thank you for your time and concern.

Sincerely,

Mildred A. Field

SENATE TAXATION

January 24, 1995

BILL NO. 41 SB 39

Just now, aware of BEADg ^{Sept 25} 1991

PAUL H COYAN
BOX 1245
GLENDALE, MT 59330

NO, I did not receive my full refund from the state of Montana. I filed for refund for 1983 and at the time was told they didn't have to pay it, so didn't file any more. It was sent around thru the Courts until we finally got it, but we were never allowed to file any of the others before they payed for what we had filed. We should have had a new deadline.

SENATE TAXATION
DATE January 24, 1995
ENROLL NO. 42
BILL NO. SB 39

Kalispell, Montana
Oct. 26, 1994

Rick Darvis, CPA
121 North Main Street
Plentywood, MT 59254

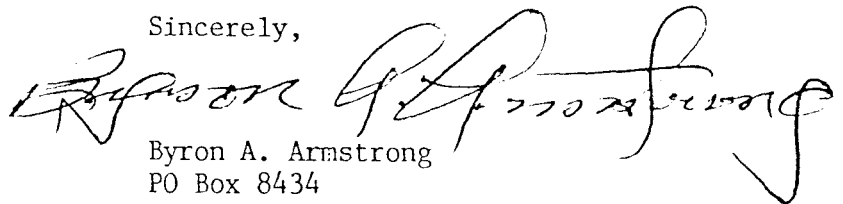
Dear Mr. Darvis:

I am a Federal Retiree. I received word from James E. Bell, CPA, that you desired information from me and others like me concerning our views on the income tax refunds owed us by the State of Montana.

I received all of the refunds due me, with the exception of that due for 1985. For this year I failed to file a request for refund within the time limit set by the State. As a result I received nothing for 1985. For this year I paid state income taxes in the amount of \$1802.61.

Even though I made the mistake of not filing on time, that doesn't alter the fact that the state actually still owes me the above amount for the year 1985. The courts have made it clear that the state owes refunds for the years 1983 to 1988. In all fairness it should assume that obligation and make the refunds. I suggest that the State of Montana, after adequate publicity or direct contact, give the retirees one more opportunity to file requests for the refunds due them.

Sincerely,



Byron A. Armstrong
PO Box 8434
Kalispell, Montana 59904

SENATE TAXATION

DATE January 24, 1995EXHIBIT NO. 43BILL NO. SB 39

10-19-94

Dear Sir,

I feel that if the State refunds to some they should refund to all.

I spent seventeen years in the post office & of course paid my State tax, which I understand was unlawful, as the State employees were exempt.

I hope this will express my views on the matter.

Thank You
Clayton Kveseth
931 1st Ave. No.
Half Point, Mo.
64201

SENATE TAXATION

DATE January 24, 1995EXHIBIT NO. 44BILL NO. SB 39

Mr. Rick Darver:

I noticed your clipping in the paper - I would appreciate any further information you could give me - I filed amended returns for the years 1984 thru 1988 - I received refunds for the years 1984 - and 1988 - . Refunds for the years 1985-86- and 87 were denied for the reason - so they say - that they did not receive the amended return.

I took my "work copies" of returns to Helena - they made copies of my returns - and said they would consider them and notify me - . See copy of their decision - attached. also copy of their schedule with payment received for 1984.

Thank you for any further information you could furnish me.

Gerrit K. Leppink

Box 5128 Swan Lake
Big Fork, MT 59911

SENATE TAXATION

DATE January 24, 1995

LEAVE NO. 45

BILL NO. SB 39

617 34th Ave. N.E.
Great Falls, Mont.
Oct 14, 1994

Rick Darnis
121 N Main St.
Plentywood, Mont.

Dear Rick? In response to your
Ad in the Great Falls Tribune:

I'm a retiree of 21 yrs 8 months &
24 days in U.S Airforce & Navy.

I received tax refund from State of
Mont for 83, 84 & 88. They told
me I didn't qualify for the other
years ~~as~~ because I hadn't filed
before statute of limitations run out.

I called Helena & they said I wasn't
qualified due to statute, ect.

Let me know if you think I'm
still able to do something on this
manner.

Thank you
Theodore Rente

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 46

BILL NO. SB 39

10-16-94

Glovere, W.D. 59464

Sir;

NO I did not get all of the
Refund of Taxes this wonderful
state chose to take from me. Illegally.

In fact I only received the
Refund for 1988.

Someone at state level says
all us retired people were sent
a notice to file protests or not
being taxed. Thats wrong to start
with, Because I did not receive
such a notice.

Secondly if they knew it was
Illegal why were they doing it.

You know this is really a
Reward for the 19 years of Active
Navy Service that I gave my State
& country so others could enjoy the
Freedom they have.

Now at every turn in the
road, the Government is trying to
go back (and doing so) on what they
promised us.

The reason it makes me so
mad is that they are taking
money out benefits so they have
more money to send to the G.O.B.

I would like to thank you
for realizing we have been
wrong story.

I guess I better ring off before
I blow a gasket.

Ronald M. Dormady
Retired Machinist
Chief Petty Officer, USN
RONALD M. DORMADY
517-42-2304
STAR ROUTE
MOORE, MT. 59464

This was given
to me by a friend

January 24, 1995

8-12-1994

BILL NO 3339

Attn:

Rick Harris, CPA

I saw your notice in the paper, so I thought I would contact you.

This is a copy of David W. Pearson's state tax. They paid 1983 and 1988, but would not pay 1984, 1985, 1986, and 1987.

Dave died in 1990 and I am his Authorized Personal Representative. I called Helena and was told that he had not filed a timely claim for those years. His accountant had contacted me when their first was brought to light. We took the papers to Dave and he signed them and they were sent in. He was never told he had to contact anyone about the other years. A while back I talked to a lady in the office in Helena & asked why he didn't get the other years, that is when she said he hadn't filed a timely claim. I said to her, so the state is coming out ahead because of that & she said, your right!

Thank you, Connie Swanson

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 48

BILL NO. SB 39

Oct. 14, 1994

Rick Davis

The Internal Revenue
Service of Montana has
defaulted on back payments
on four years refund.

Lew A. Harney
3512-8th Ave. South
Great Falls Mt.
59405

Ad. Falls, MT 59404
Oct. 11, 1994

Dear Mr. Plaines:

I am writing concerning the Supreme Court ruling that the State of Montana incorrectly taxed the Federal retirees.

I retired in January 1983, and I feel that it is very unfair for the State to not refund the taxes due only because I did not protect in the allotted time. During the years the Legislature through the news media stated funds were not available to pay the retirees. My accountant & I discussed the matter and decided it would serve no purpose for me to file in addition to having the expense in having the forms prepared. However, after the State decided that funds were available

I waited for the refund. I also requested an accountant to prepare the forms for the other years & I furnished the forms in July '94. As of this I have not received any correspondence regarding the matter.

I appreciate any action that can be taken regarding this matter. If another lawsuit is necessary I will be glad to contribute to that also.

Yours Truly,
Mrs BEATrice McCall

SENATE TAXATION
DATE January 24, 1995
EXHIBIT NO. 49
BILL NO. 33.39

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 50

BILL NO. SB 39

12.007.44

Mr. Davis:

I was one of those who did not receive all the refund due to me. My CPA "screwed up" and didn't file amended returns for all of the years involved. I received only 3 years refund, whereas I should have received all 5-6 years. —

What do you have in mind?

Sincerely:

J. A. Lenzmeier

Col. J A Lenzmeier
1119 19th Ave SW
Great Falls MT 59404
★★★ 406-727-6862

SENATE TAXATION

DATE January 24, 1995

EXH. BIT NO. 57

BILL NO. SB 39

Oct 10, 1994

Dear Mr. Davis,

We received a letter from the State stating we would not receive a refund for the years 1983, 1985, 1986 or 1987 since we did not file within the statute of limitations.

We are sending the above information in reply to your notice in the Great Falls Tribune.

Thank you.

Sincerely

Clarence T. & Leslie Higgins

3220 19th Ave S

Great Falls MT 59405

SENATE TAXATION

DATE January 24, 1995

ENROLL NO. 52

BILL NO. 5839

W. Endym
Leicester, Vt.

59457

Oct 6, 1994

Rick Darnis CPA
171 N Main St.
Plattsburgh, Vt.
59457

Dear Sir:

We never received
a refund for incorrectly
taxed retirement. I
kept asking our CPA
who files for us to
send whatever was
necessary, but he
failed to do so.
Vic retired from
the Post Office in 1984.
I thank you for any
help in getting a refund.
Sincerely,
Victor W. & Barbara
Lelek

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 53

BILL NO. SB 39



Leonard G Palagi
1701 17th Ave S
Great Falls, MT 59405

RICK DARVIS CPA
121 N. MAIN ST.
PLENTYWOOD, MT 59254

I AM ENCLOSING A COPY OF
THE CLAIM PAYMENT I RECEIVED
FROM HELENA SHOWING REFUNDS
FOR 1983 AND 1984, BUT NOT FOR
'85-'86 AND '87. MY PRESENT ACCOUNT-
ANT WORKED FOR ANOTHER FIRM AT
THE TIME AND PREPARED MY RETURNS
BUT HAS SINCE LEFT THAT FIRM AND
WENT OUT ON HIS OWN. I WENT TO
HIM TO FILE MY CLAIM FOR INCORRECTLY
TAXED INCOME ON MY RETIREMENT
AND IT WAS MY UNDERSTANDING HE
HAD MY FILE TRANSFERRED FROM THE
OTHER FIRM TO HIM. ANYWAY FOR SOME
UNEXPLAINABLE REASON HE EVIDENTALLY
FILED ONLY FOR '83 AND '84 AND NOW HE
SAYS IT IS TOO LATE. IS IT? SINCERELY,
Leonard Palagi

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 54

BILL NO. SB 39

7 October 1994

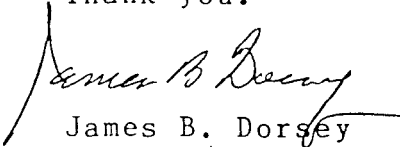
Rick Darvis, CPA
121 N. Main St.
Plentywood, MT 59254

Dear Sir:

I reply to your notice in the Great Falls Tribune on the 2nd of October 1994, I am a Navy retiree, having retired after 20 years of service in 1978.

When the Federal retirement controversy over Montana state taxes came up, I filed an amended tax return for 1983. Since I didn't receive any refund, I did not file any more amended returns until the Governor said he would refund for 1988. I received that refund and the one for 1983. I did not receive refunds for 1984, 1985, 1986, or 1987.

Thank you.


James B. Dorsey
AWC USN/RET
249-68-0598

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 55

BILL NO. SB 39
Oct. 14, 1994

To: Rick Darvis CPA

Plentywood, Mt.

From: John Habeger

1751 Mariposa Ln.

Billings, Mt. 59102

Re: Return of incorrectly taxed retirement from the State of Montana:

Dear Rick,

I saw your ad in the Billings Gazette and am writing to see if you have any new information in this regards.

I am Retired, both from the Federal Government and the Military. I originally filed ammended returns for the years 1983, 1984 and 1985, asking for the return of my taxes on Federal Retirements. I later filed amended Returns for the Years 1986, 1987 and 1988.

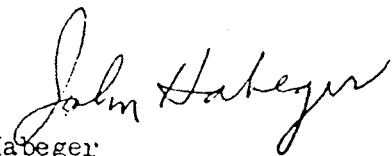
I recieved rebates on the Taxes for the Years 1983, 1984, 1985 and 1988 , but was told that my last filing was to late for the years 1986 and 1987. The 1986 should have had a \$1799.00 rebate and the 1987 should have had a \$1553.00 rebate.

It appears to me that all years should have been due for a rebate in lieu of the fact that I had earlier protested on 83 -85 and did recieve those rebates, plus the 1988 rebate.

Is there still a chance that this can be protested, or taken to court.

Sincerly,

John Habeger



SENATE TAXATION

DATE January 24, 1995EXHIBIT NO. 56BILL NO. 3815-5th Ave. South SB 39
Great Falls, MT 59405

October 12, 1994

Mr. Rick Davis, C.P.A.

121 N. Main Street

Plentywood, MT 59254

Dear Mr. Davis -

My attention has been directed to an advertisement in the Great Falls Tribune (October 22nd edition) concerning tax refunds to former government employees, for the years 1983, 1984, 1985, 1986, 1987, plus 1988.

I am an ex-civil service employee having retired in 1972. I did file all necessary amended returns showing amounts of tax I paid during those years. When my refund for 1983 thru 1987 showed up in the form of a check, I only received it for 1983. (of course 1988 was a different story, and I did also get that).

After questioning the Department of Revenue, they state they can not find any amended returns for 1984-1987. Obviously, I forwarded them to the department on time, otherwise how could they make the 1983 refund.

My question is, do I have any recourse or is it a dead issue for those years. If I had to, I could develop the amended returns again, but I don't know if it would be acceptable.

I would like your interpretation as to what might be done, to secure the refunds, how to proceed and what the costs might be to pursue them.

SEE ATTACHMENT

DATE January 24, 1995

EXHIBIT NO. 57

BILL NO. \$6.39

Dear Sir;

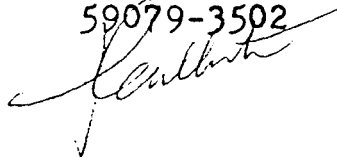
I have at hand your block ad in the Billings Gazette.

In my particular case the State paid the 88, then 83, 84, 85 and said ~~said~~ I failed to file amended returns for 86, and 87. I talked to Jeff Miller the head of the department and he authorized payment of one but not the other.=

I would appreciate full details and approximate COST of your litigation.

Thanx,

Zohn P. Culbertson
7215 Church Road
Shepherd, Montana
59079-3502



10-5-94

SENATE TAXATION

DATE January 24, 1995

FILE NO. 58

BILL SB 39

Mr Rick Darvin

I'm writing in regards to the inadequate way that we feel the State of Montana & RS handled the way of retired back taxes 83-87. Which the U.S Supreme court ruled they pay us.

We were never informed in what manner to file our taxes. So we filed as usual, on amended form for each year.

It's hard to believe that they think we would purposely file wrongly, when we need our money & have to make every penny count for us & certainly not waste.

Trenton Gov Barist & his office said we didn't file accordingly, ~~the~~^{to} the law, but we didn't know the law in this case not being informed. We feel there should have at least one informative letter for retirees & now it seems that others have had the same problem.

I'd hope something can be done. Since there seems to be a glut of tax money right now sitting in our State Treasury.

Thank you for caring
Mr. Mrs. Harold Arnold

3818 Highland Dr

Great Falls MT 59405

SENATE TAXATION

DATE January 24, 1995

ENLIGHT NO. 59

BILL NO. SB 39

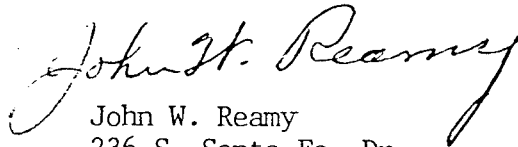
Oct. 5, 1994

Rick Darvis, CPA
121 N. Main St.
Plentywood, MT 59254

I read your ad in the Billings Gazette and would be interested to hear what you have in mind.

I am a Federal retiree since 1984. I received a refund for taxes paid in 1988, but was told I could not get a refund for previous years because I had failed to file timely ammended returns for those years.

Can you help me?



John W. Reamy
236 S. Santa Fe. Dr.
Billings, MT 59102

SEN. JEFFREY BLAKE

Date January 24, '95 October 6, 1994
EXHIBIT NO. 60 2017 Lamar Drive
BILL NO. SB 39 Billings, Montana
59102

RICH DARVIS, CPA
408 Lasater - Box 291
Plentywood, Montana 59254

I am a Federal retiree as of June, 1978.

I filed amended Montana Income Tax returns for the 5 years 1983 through 1987.

1983 and 1984 amendments were filed within the 5 year statute of limitations and I was refunded for these two years, on July 29, 1994. Amendments for 1985, 1986 and 1987 were all filed on August 22, 1993. I was later advised that I was not eligible to receive refunds for these years as I had not filed within a Statute of Limitations period.

I was never officially advised by Montana that I had to file amendments within 5 years of the filing due date for these returns to be eligible for refunds. I know several people that were not aware of the 5 year period and never filed at all. Had I, and had they been aware of such a requirement it is obvious we would have appropriately filed.

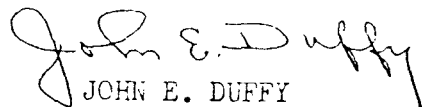
The U. S. Supreme Court ruled that Montana incorrectly taxed Federal retirees. The court made no provision that claims for corrections had to be filed within a specific period.

I was not in any way involved in the past settlement litigation. That group was not speaking or negotiating for me. I have not accepted their agreement with the State as final.

Montana violated a Federal Law. The State acknowledged this by the settlement (incomplete) this year. A questionable technicality (Statute of Limitations) that a great many people did not know about should not exempt Montana from correcting their mistake fully.

I do not believe the Supreme Court intended that the error should only be partially corrected.

Sincerely,


JOHN E. DUFFY

SENATE TAXATION
DATE January 24, 1995
EXHIBIT NO. 61
BILL NO. SB 39

October 5, 1994

Mr. Rick Darvis CPA
121 N. Main St.
Plentywood, MT 59254

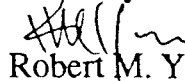
Dear Sir.

I am responding to your ad in the Great Falls Tribune.

I contacted the Montana income tax division office in September 1993 and was advised to file an amended return for 1988 and wait for a court ruling before filing for the remaining years. I did that and received a refund for 1988. In March 1994 I filed amended returns for 1983 through 1987. In April 1994 I received notice from the state that my amended returns were disallowed since they were not received within the statute of limitations of five years.

If some action is being anticipated, I would greatly appreciate being notified.

Sincerely,


Robert M. Young
2412 47th Ave S.W.
Great Falls, MT 59404
Phone 406 761-8277

SENATE TAXATION

DATE January 24, 1995

ENROLLMENT 62

BILL SB 39

29 Sept. 1994

Roger N. Kramer
8400 Edith Ave
Milton, FL 32570

Mr Davis,

I am retired Navy and lived in Montana where my retired pay was taxed from Sept. 1975 until Jan. 1985. I have been here in Billings for the summer and heard about the refunds. When I inquired at the I.R.S. office about applying for the refund I was told it was too late to apply.

After seeing your ad in the Billings Gazette I am wondering if this is so, or can you help me. I will be in Billings until Oct. 10th and can be contacted at (406) 252-1354.

645 Ave F.

Bldg. Mt 59102

Roger N. Kramer
517 34 7784

RET CPO USN.

SEN. EXHIBITION

FILE January 24, 1995

EXHIBIT NO. 63

Oct ~~EXL~~ NO. 994 SB 39

Gick Davis, E.D.C.
121 W. Main St.
Glentworth, Montana
59294

Dear Mr. Davis:

I read with interest your ad. in
our Great Falls Tribune.

I amended my '83 and '84 return
and received refund. I did not
amend '85 - '86 and '87. Therefore no
~~return~~ refund.

Would I thank you for a reply if
I figure in your "full refund" query.

Again "Thank you"

Mrs Emma J. Drazich



MRS. EMMA J. DRAZICH
2415 - 6TH AVE. NO.
GREAT FALLS, MT 59401

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 64

BILL NO. SB 39

Great Falls, Mt.
Oct. 5, 1994

Rick Davis
CPA
121 N. Main St.
Plentywood, Mt.

Dear Sir:

I did not receive a refund on my taxes from 1983 - 1989. I am a federal retiree. Please inform me as to what can be done about this.

I am enclosing my name and address plus two more federal retirees that would like some information also.

Sincerely

Eli Tani

Eli TANI
1208 1st Ave. S.
Great Falls, MT. 59401

Joe Gryhosky
1000 3 Ave. S.W.
Great Falls, MT. 59401

Elmer Fauth
1210 55 Ave. S. 59405
Great Falls, MT. 59405

Mr Rick Davis CPA
131 N. Main St.

Sheltywood, Mt 59254

Dear Sir:-

My name and address is
Pauline S Johnson

1501 - 9 St So # 221

Great Falls, Mt 59405

Phone number 1-406-771-7942

I saw your add in the
Gt Falls Tribune about Federal
Retirees not receiving their
full retirement refund.

I received my tax refund for
1988. However I still have
5 years from 1983 to 1987 inclusive
that I never received anything
for. I am still interested
in getting this tax back
I worked in the postoffice
in Stanford Mt 59479 as
a postal clerk

I hope this bit of information

will help you in what
you are trying to do.

Yours very truly

Pauline S Johnson.

1501-9 St So # 221

Great Falls, Mt 59405-

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 65

BILL NO. SB 39

ISSUED 07/29/1994

NUMBER 005874549

AMOUNT \$\$\$\$~~117.57~~ SENATE TAXATION

YR	TAX	INTEREST	SUBTOTAL	LEGAL FEE	PAYMENT	NET/AMT
83	402.00	113.39	515.39	-14.44	500.95	
84	256.00	65.63	321.63	-9.01	312.62	
85	0.00	0.00	0.00	0.00	0.00	
86	0.00	0.00	0.00	0.00	0.00	
87	0.00	0.00	0.00	0.00	0.00	
TOTS:	658.00	179.02	837.02	-23.45	813.57	813.57

AGENCY 5801
DEPARTMENT OF REVENUE
406-444-3438

CLAIM 9519012

PAYEE 527288577

ALL PURPOSE

NET/AMT

BIT NO.

NO. 5839

Billings, Mont

Oct, 4, 1994

I noticed your add in the paper, and thought I would bring my problem to you. I had my C.P.A. send in my application in 91 and he said for me to just send in two yrs first and we will see how it comes out, and we sent the rest in 92 and they said it was too late so I didn't get anything for 85 and 86. Thank you for your add, see what you can do.

Thank you

I hope to hear from you

S.C.M. 527288577

Send me the Bill

David Heidema

1111-NORTH 19th St

Billings, Mont

59101

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 67

BILL NO. SB.39

Dear Sir"

I hve just read your notice in the Great Falls paper. I am
very interested in what to do.

I didn't get all that I think I am entitled to

I did receive part of my return for 1988. The amount was a
little over \$600.00. But as the last time around I didn't
hear from them or receive any amount from them

Thank You'

Thomas P. Lund

So. St. Rte. Box 265

Nashua, Mt.

59248

Tom Lund

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 68

BILL NO. SB 39

1-24-95
f-m-44

Mr Rick Davis' Test
Plenty with it.

Dear Mr Davis:

This is in response to your recent ad
in the Billings Gazette & our phone
conversation of this date.

My accountant, Mel Honey of Summers &
Melley handles my tax work.
He filed my returns for 83 thru 87
we talked several times about the
necesity for making claims for the
Federal retirees tax returns.

In July I received rebates for 83 & 84
but nothing for 85, 6 & 7.

I called Mel about the matter & was
told he had contacted the Tax Dept & they
were looking into the matter.

I kept calling him but he had not
heard from Helena.

I finally became annoyed & called
Helena myself. Some woman told me they
did not have amended returns for 85, 6 & 7.
The accountant, however tells me he
filed the amended returns & has copies of
them. He has told Helena to push but
still no action.

I am suggesting that Mel also contact you.

I would be willing to cooperate with you in
any action you contemplate.

I am yours truly 503 101461

SEN. J. D. DICK

DATE January 24, 1995

ENTERED 69

BILL NO. SB 39

Sept. 28, 1994

Mr. Rick Darvis

I am writing this letter in regards to your ad in the News Paper. I feel the State taxed us Illegally in the first place and they should have made a refund to every one of us, regardless when we filed a amended return.

I filed my amended returns last year, and they paid me for 1988, but they said I had not filed my amended returns on time, so they would not pay me, for the years 1983 through 1987.

They taxed us Illegally and I feel they should have refunded all of us and not just some.

I hope you can get enough backing so we can get the state to be honest.
Best Regards

Robert P. Lunder

335 Wicks Lane

Billings, MT, 59105

Phone 259-8933

Sept. 28, 1984

Rick Davis, C.P.A.
121 North Main St.
Plentywood, MT 59254

Re: Your notice in the Sept 25, 1984
(Sunday) TC Billings Paper

I would be interested in
hearing of any information
I'm unaware of.

Sincerely
J. W. Burgess

I received refunds for 1983 \$1088
although I paid state taxes for
84, 85, 86 & 87. The state denied
payment because I didn't file the
recommended forms - very few people
did because the state said they
were not going to pay
I signed and furnished them
with an appeal form 10-18-89.
This allowed the 83 return I
received.

My C.P.A. has many clients who
missed the 84, 85, 86 & 87 refunds due
to misinformation or just plain stupidity.

BILL NO. SG 39

EXHIBIT NO. 10

DATE

SENATE TAXATION

January 24, 1995

Sept. 28, 1994

Rick Davis, CPA
121 N. Main Street
Plentywood, MT. 59254

SENATE TAXATION
DATE January 24, 1995
EXHIBIT NO. 71
BILL NO. SB 39

Dear Sir:

I don't know if I have received all I have coming on my retirement refund. I filed a request for the 1988 taxes & only received a check for \$23.⁰⁰. Do I have any more coming for later years?

I am a widow of a retired government employee - now deceased. His Social Security number was 516-03-6004. - name Russell R. Bodley. I am Virginia A. Bodley - listed under SS. # 516-03-6004-D. Hope this information will help.

Sincerely
Virginia A. Bodley
632 Ave. D
Billings, MT. 59102

26 SEPT 1944

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 72

5839

DEAR MR. DARVIS

I WAS ONE OF MANY THAT DID NOT RECEIVE A FULL REFUND. AFTER CHECKING INTO THE MATTER, IT WAS MY OPINION THAT THE STATE HANDLED IT IN A TRICKY MANNER WHICH LEFT ME AND MANY OTHERS WITHOUT RECOURSE. THE HEAD OF THE STATE TAX DEPARTMENT WHICH HANDLED THE REFUND INFORMED ME THAT THERE IS A 7 MILLION DOLLAR EXCESS WHICH TELLS ME THAT MANY FEDERAL RETIREES WERE CAUGHT IN THE SAME BIND AS MYSELF.

IF YOU PLAN SOME SORT OF ACTION TO RECOVER, YOU HAVE MY FULL SUPPORT.

SINCERELY,

W. P. Abballan

W. P. ABBALLAN

COL USAF (RET.)

2320 S. 45th WEST

BILLINGS, MT 59106

(406) 656-9404

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 73

BILL NO. SB 39

HI RICK;

FIRST I WOULD LIKE TO SAY THANKS A MILLIAN FOR BRINGING THIS THING UP NOW. WHEN THIS WHOLE THING STARTED, IT SOUNDED LIKE A GOLD DEAL, BUT AS IT WENT ALONG, THINGS CHANGED SO OFTEN IT WAS REAL FLUSTRATING. WHEN I FIRST HEARD ABOUT IT I DID HAVE MY COPY'S OF 1983, THE YEAR I RETIRED SO I HAD HIM LOOK AT IT, THAT IS A C.P.A. HE TOLD ME TO SEND THAT IN AT THAT TIME BUT THAT WAS RIGHT ABOUT THE TIME THEY WERE SAYING, NO IT IS NOT GOING TO BE REFUNDED, SO I KEPT IT FOR A WHILE AND WE DID NOT HEAR ANY THINGDEFFENENT SO I JUST LET IT GO. THIS WENT ON FOR QUITE A WHILE, THEN ALL THE SUDDEN THEY TELL US THAT THEY ARE GOING AHEAD AND PAY THIS. IN THE MEAN TIME, I WAS RUNNING OUT OF ROOM TO STORE THESE EXTRA STUFF SO I WAS LEANING OUT ~~SEE~~ STUFF AND I HAD BEEN SAVING ONLY THE TAX COPY'S FOR THREE YEARS SO I TOSSTED THE OLD FORMS AWAY TO MAKE ROOM FOR SOME MORE. I FIND NOW THAT I HAD DONE WRONG BUT ITS IS TO LATE. IS THERE ANYTHING I CAN DO TO CORRECT THIS?

THANKS IN ADVANCE

FRED E. LITTELL

615 SO. TAYLOR

GLEN DIVE MT. 59330

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 74

BILL NO. SB 39

Robert L. Tillery
410 B Eagle Ave
Miles City, MT 59301
September 14, 1994

Rick Darvis, CPA
121 North Main
Plentywood, MT 59254

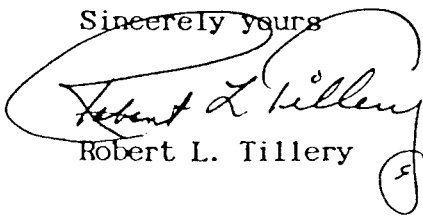
Dear Mr. Darvis:

Read your Classified in the Miles City Star tuesday September 13th and am one of the Federal Retirees that was passed over when it came to receiving all of my tax refunds.

I received my tax refund for 1988, but did not receive notice from the state as to when and how to file for the years 1985, 1986 and 1987. (I retired in May of 1983 and did not have to pay tax on my income for 1983 and 1984 because my retirement that was withheld was tax free for the first two years.).

I would be very interested in getting my taxes paid to the state back for the years that I have coming.

Sincerely yours


Robert L. Tillery

SENATE TAXATION
DATE January 24, 1995
EXHIBIT NO. 75
BILL NO. SB 39

Clifford T. Hartford
Box 2202
Cut Bank, MT 59427
September 15, 1994

Rick:

Saw your ad in the Cut Bank Pioneer Press. I received refunds for '83, '84 and '88 but was denied '85, '86 and '87. I have no proof, but after we filed the amended '84 form we were notified by someone not to file anymore forms because the case was in litigation. When the court ruled the refund was to be made I assumed that was the time to file for '85, '86 and '87, which I did in March of this year. I was denied those years because of the time limit. The tax was collected unfairly and the bottom line is the court ruled it has to be refunded. I feel all that should have been required was a statement of our name, address and social security number and a request that a refund be made. If an amended form was required a waiver of the time limit should have been allowed. The governor attempted to have a bill passed to waive the time limit but it was defeated.

Sincerely,

Cliff Hartford

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 76

BILL NO. SB 39

Big Sky Country
Miles City, Montana

September 14, 1994

Mr. Rick Davis, C.P.A.
Plentywood, Montana

Dear Mr. Davis:

This is in response to your advertisement in the Statewide Classified section of the Miles City Star newspaper issue of September 13, 1994.

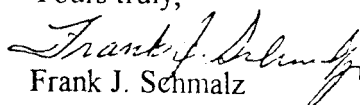
Unhappily I am a Federal retiree that somehow missed qualifying for the annuity tax refund. I failed to submit the required amended tax returns. I retired in 1983 and requested my tax preparer, H. R. Block, to prepare the amended document. We went south that winter and upon returning I didn't check with them until tax time the following year. They assured me that they would prepare the amended tax returns. Unwisely I did not follow through because I changed our tax preparer. And of course Block did not follow through either.

I am encouraged that you are perhaps in the process of contacting others like me in order to find out what might result if the State legislature were approached once again. Having spoken to Mr. Zook and Mr. Devlin, both of them members of the legislature, we were informed that sufficient funds were reserved specifically for annuitants' tax refund, and that those funds still are in escrow for that purpose only.

I blame myself completely for missing out on the refund. However, I also feel that there was insufficient warning and instruction material provided by the state Department of Revenue.

If you think it worthwhile I hereby volunteer to assist you in this quest in whatever capability I am able to. Please place me on your informational listings if you offer such.

Yours truly,


Frank J. Schmalz

P.O. Box 1168
Forsyth, MT 59327

September 18, 1994

SENATE TAXATION
DATE January 24, 1995
EXHIBIT NO. 77
BILL NO. SB.39

Mr. Rick Darvis, CPA
121 North Main
Plentywood, MT 59254

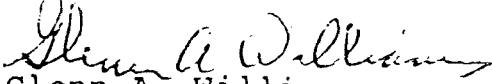
Dear Mr. Darvis:

In this weeks Independent Enterprise in Forsyth, I noticed your advertisement. I have never received any of the income tax which I paid the state of Montana. Apparently the group in Great Falls or Helena where the suit took place, kept it a deep dark secret until it was too late to apply.

I retired from the Navy on September 30, 1974 and started to work at Billings Senior High School on October 8, that same year. I have paid state income tax on that retirement except in 1986 and 1987, when I was out of state.

Any information you may have will be deeply appreciated by several Federal retirees in or around Forsyth. My address is listed above or you can contact me by telephone at 356-7803.

Sincerely,


Glenn A. Williams

SENATE TAXATION
DATE January 24, 1995
EXHIBIT NO. 78
BILL NO. SB.39

9/20/94

DEAR RECK,

THIS IS IN ANSWER TO
YOUR ADVERTISEMENT IN
THE NORTH VALLEY ADVERTISER.
WE LOST TWO YEARS OF
MONTANA TAX REFUNDS.

WE RECEIVED A LETTER
FROM THE STATE TAX PEOPLE
SAYING THEY WERE NOT GOING
TO REFUND FOR THOSE TWO
YEARS WE DIDN'T FILE PROTESTS.
OUR ACCOUNTANT & US BOTH TIRED
OF THE ANNUAL FILINGS &
REJECTIONS. IT LOOKS LIKE
THE TAX PEOPLE FEEL LIKE
THEY HAVE A LICENSE TO STEAL.

SINCERELY,

Edgar A. Webb
MAJ. USAF, RET.

SENATE TAXATION
DATE January 24, 1995
EXHIBIT NO. 9-21-94
BILL NO. SB 39

Rick

Per our conversation. Here
is a copy of the letter to the
governor.

Please keep in touch. I
am retired and not always home
but I will return your calls
or correspondence.

Thanks.

L. Yelenick

406-222-3928

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 80

BILL NO. 5639

September 21, 1994

Mark Racicot, Governor, State of Montana
State Capital Building
Helena, Montana 50620-0801

Dear Sir;

I am writing regarding a tax refund which the state illegally taxed me on a Federal buy out.

In 1987, I took a buy out from the Burlington Northern Railroad. The state taxed me approximately \$5,000.00 from the buy out. I immediately obtained copies of the tax laws and in turn contacted the State Department of Revenue. I sent copies of the tax laws to the Department of Revenue. I was contacted in 1988 and was advised that the matter would be addressed and I would be advised. I was referred to the Department of Revenue Attorneys, who advised me, when a decision was reached I would be contacted.

I was in contact with the Department of Revenue and their attorneys for the next four (4) years.

In 1993, When the Legislature voted to return this tax I again contacted the Department of Revenue. This time I was told I would not receive the refund because I did not file an amended tax return to claim the refund.

I asked why after all the phone calls, I wasn't told to do this. The department head told me it wasn't their responsibility to advise me and that they advertised in local newspapers and I should have responded.

I can't believe the response, "Yes we took your money illegally but we are not going to give it back".

I would appreciate any help you can do in this matter.

Thank you.

Sincerely,

L. M. Yelenich
Louis M. Yelenich

P.O. Box 205

Livingston, Montana 59437

Telephone 222-3928

SENATE TAXATION

DATE January 24, 1995EXHIBIT NO. 81BILL NO. SB 39

1-30-94

Dear Rick -

I have not received
all my tax refunds. I got
the '88 refund and nothing
more. My tax preparer -
H & R Block - sent the needed
forms in but the state says
they didn't get them. The only
way to prove they were sent
is by a letter from the state
saying they got them. How can
I do that? Is there anything
more I can do?

Respectfully

Dwile Courtois
PM retired 1983

SENATE TAXATION

DATE January 24, 1995EXHIBIT NO. 82BILL NO. SB 392240 Monad Rd., #2
Billings, MT 59102

27 September 1994

Rick Darvis, CPA
121 N. Main Street
Plentywood, MT 59254

I saw your notice in the Sunday Gazette, 25 September regarding refunds of the tax for Federal Retirees. My CPA I feel was not forthe refund and did not advise me to file a amended form on previous paid taxes. I did file for the 1988 tax refund and recived the refund.

Following is a list of taxes paid:

1988	I received	\$ 1071.72	which included interest of	\$ 304.72.
1987	Tax paid -	\$ 531.00		
1986	" "	559.99		
1985	" "	416.00		
1984	" "	560.00		
1983	" "	647.00		


I was informed by the Tax Dept. in Helena that I could not receive a refund on the above as the time to file had elapsed.

My social security number is 564-09-6404.

My phone number is 652-3085.

I will be looking forward to hearing from you as I would make decision on what action to take after I hear from you.

Sincerely;


Elwood A. Orr

Donald E. Oertli
366 West River Road
Hamilton, MT 59840
406-363-2058

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 83

BILL NO SB 39 9-17-94

Mr. Rick Davis, CPA
127 North Main
Plentywood, MT 59254

Dear Mr. Davis,

I noticed your ad in the local paper,
about Federal Retirees MT State Tax
refunds.

I have received refunds for the year 1988,
but not the years 1986-87. Prior to
86-87, I had no refunds due.

I contacted the MT Income Tax Division
about these two years and was told
that I hadn't filed the proper
amended Tax forms for the refunds.

If there is a different view on the
refund situation now, I would be
interested, as the taxes I paid for
the two years amounts to \$280⁰⁰.

Please let me know if I'm eligible at this
time.

9-26-94

Rich Darnell, C.P.A.

131 W. Main Street

Plantation, Mt 59254

Mr Darnell,

Wrote you all in the Bazaar

August 9-25-94. Are you helping

in the amended form of report

on Federal employees paid for

the year 1988 or to the year

before 1988? We did not pay

our new taxes under protest

and did not even pay 1988

taxes. Taxes are paid in the

amount as before 1988

The State of Montana and

Federal employees for all the

correctly taxes are paid. Beyond

that of the State of Montana

We paid income taxes due

according to the Tax laws

(and)

the State of Montana can be
except.

I am writing on behalf of my

husband as retired Federal

employee. I feel all the money

Records for income tax forms

and I feel responsible I don't

not know my share in the

amended tax forms before

the State made a decision

for our refund and the State

of Montana now out.

I thank you for making

my letter.

Caroline Jane K. May

Wife of E. K. May

645 N. 10th Street

Billings, Mt 59101

SENATE TAXATION
DATE 9/24/95
EXHIBIT NO. 84
BILL NO. 5839

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 85

BILL NO. SB 39

Nothing has been
Refunded for the other
years from 1990 - 1994.

Thankyou
Mary Stripp

9-26-94

Rick Davis -

In Reply to your
ad in the Billings Gazette
yesterday - I did NOT
receive a full Refund
on my Retirement tax
from the State of Montana

A check for 1988
was received in January
of this year.

Donald D Jones
218 Riverside Rd.
Bldg. Int. 59101

Mr Davis seen your notice
in Sunday Paper regarding
Federal Retirement refund. Sam
in force retired. My Retirement was
July 30 1972 have been a Montana
resident all my life also payed
State taxes to keep my home
of resident. I received payment
for years 1984 + 1988 but not
for years 1985-86 + 87. When whole
matter was being confusing not much
info provided. When this find
became about I contacted my
tax people J & R Block they
told me I had to do was file
a 1984 amended return + it was
like a blanket claim + would
cover all years in question (?)
But not so. The State sent
OVER

me a form to file for 1988
refund so I did + received a
refund. Mr Davis asked
whether me is why they did
go thru their records + pay
for the years 1985-86 + 87 I
know for a fact if I would have
for those years I would of
had to pay. I wish to
thank you for your concern

Donald D Jones

SENATE TAXATION

DATE

EXHIBIT NO. 86

BILL NO. SB 39

January 24, 1995

SENATE TAXATION
DATE January 24, 1995
EXHIBIT NO. 870
BILL NO. SB 39

10-2-94

Dear Sir,

I have read your ad
in the paper about the Retirement
Payment of Taxes. I have lived
in Montana since 1967. I
retired on Sept 1, 1975. I did
not receive my taxes that I
paid in 1983 thru 1987. I called
the IRS and they said that it
was too late to get it now.
But I would appreciate
everything you could do.

Rodney C. Kuhn
709 - 11th St South
Great Falls Montana
59405.

Social Security 20-26-5217
Phone 406-727-6971

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 88

BILL NO. SB 39

9-26-94

DEAR MR. DARVIS.

IN RESPONSE TO YOUR ENQUIRY
IN THE BILLINGS GAZ. - NO
I DID NOT GET ANYTHING
NOR WAS I AWARE OF
ANY LAWSUIT UNTIL IT WAS
PUB. THAT THE STATE OF
MONT. SETTLED WITH MAIL/RET.
RET. HOPE YOU CAN DO SOMETHING.
THANK YOU - HOWARD E. CASTLE - USN RET.
320 RUSSELL DR.
BLGS, MONT. 59102

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 89

BILL NO. SB.39

Sept 16, 1994
Deer Lodge, MT.

Dear Sir:

I'm writing in regard to the
tax refund for federal employe's.

I retired with 20 some years
on a disability in 1974 - Came to
Montana in 1975 and payed tax
starting in 1976 -

Would I qualify for any tax
refunds.

Thank You for Your time.

Richard Lashley
807 Arizona ST.
Deer Lodge, MT.

59722

17-4. James
838 Yellowstone Ave
Billings MT 59101



SENATE TAXATION

DATE January 24, 1995
EXH. BIT NO. 90
BILL NO. SB.39

In reply to your ad.
in Billings paper

From 1983 thru 1983
I did not receive
a refund.

what are you suggesting
suggesting we can
get the refund.

this winter I will be
in Yuma, az

2779 W 8th St
space 261
Yuma, az 85364

SENATE TAXATION

DATE January 24, 1995EXHIBIT NO. 91BILL NO. SB 39

Wolf Point Mt. 59201
Sept. 15, 1994

Dear Sir.

I saw your ad in
the Herald News.

I got a refund last year for
1988. I got a refund for 84
this year. They told me I had
not filed for 83-85-86 and 87.

When they (the state) admit they
took our money illegally, they should
refund some no matter what.

Sincerely

Donald Stearnes

Box 883

Wolf Point Mt. 59201

SENATE TAXATION
DATE January 24, 1995
EXHIBIT NO. 92
BILL NO. SB.39

Sept 14 1994

Mr Rick Davis - CPA
121 North Main
Plentywood, Mt. 59254

Dear Rick Davis:
My name is Segan R Hazen Jr.
PO Box 44 - Stanford. Mont 59479

I am a Federal retiree from Soil
Conservation Service. - 31 years.

I received ^{refund} from the state for years
1984 and 1988. I did not receive
income tax refund for years 1987-1986-
& 1985. I don't know why but suspect
the application for refund didn't get in
in time. Why did I get paid for
1994 if this is the reason.

any help you can provide will
be appreciated

My phone number is 566-2596

Sincerely
Segan Hazen
Box 44

SENATE TAXATION

DATE January 24, 1995

Lewistown, Mt.
Sept. 18, 1994

EXHIBIT NO. 93

BILL NO. SB 39

Rick Davis, CPA.
121 N. Main
Plentywood, Mt. 59254

Dear Sir:

My husband, Walter J. Swan, was an employee of the Bureau of Reclamation in the forties, fifties, and sixties. He had some breaks in his employment, but worked approximately 15+ years.

He was a surveyor and map maker. He was diagnosed with diabetes and had to retire with a disability because of his eyes in 1971.

We were never able to get forms or a satisfactory answer as to how to apply for tax refunds. Walter was born 3-15-17.

If you could help us, we'd be much obliged.

Sincerely

Shirley L. Swan

S Shirley L. Swan
P.O. Box 999
Lewistown, MT 59457

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 94

BILL NO. SB.39

1034 Terry Avenue
Billings, MT 59102-5440
September 26, 1994

Mr. Rick Darvis, CPA
121 N. Main St.
Plentywood, MT 59254

Dear Mr. Darvis:

Referring to your ad in the Billings Gazette yesterday, September 25th, I am one of the federal retirees who did not receive a full refund on taxes incorrectly collected by the State of Montana.

Although I did receive a refund for 1988, I was told I did not file an amended tax return in time for the other years.

I retired from the Billings Post Office in 1973 as a Rural Mail Carrier. My Social Security No. is 701-12-5238. I would appreciate hearing from you.

Yours truly,

Thomas B. Martin

Thomas B. Martin

is. Thank you.

875 Franklin Ave.
Forest Falls, MT 59405
(406) 452-0794
2 October 1994

Mr. Rick Davis, CPA
121 N. Main St.
Plentywood, MT 59254

Dear Rick,

As you can see per the copy of a letter received from the Dept. of Revenue, the State of Montana still owes me money for the years indicated. The submission of amended tax returns for those years that was denied me - this was due to my accountant and myself failing to file within the time limit. However, I feel it was unfair simply because there was insufficient information on the filing procedure or the filing deadline.

Let me know what your plan

Sincerely,
Ben Vaughan

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 95


BILL NO. SB 39

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 26

BILL NO. SB 39



Mr Rick Darvis, CPA
121 N. Main St.
Plentywood, Montana 59254


Dear Mr. Darvis:

I am one of the Federal retirees
that has not received my State
income Tax for 1935-36 & 37.


A clip with your name and address
was in the Billings Gazette.

I have been in contact via letter
and telephone but got no where.

This clip gave me a bit of en-
couragement and will be most
interested is what you have
to offer. THANK YOU



Helen Hartman
115 N. 24th St.
Sage Tower Apt. 501
Billings Mt. 59101



SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 97

BILL NO. SB 39

October 3, 1994

Pick Darvis, CPA
121 N. Main St.
Plentywood, Mt. 59254

Dear Mr. Darvis:

I have read your ad in the Billings Gazette.

I recieved my income tax refund as a Federal retiree, for the years 1983 and 1988.

I did not file an amended return for the years between. Do you think there is a possibility that I would be eligible for a refund those years even if I did not file an amended return.

Sincerely yours,

Eleanor V. Pedersen

Eleanor V. Pedersen
P.O. Box 437
Harlowton, Mt. 59036

Dear Rick,

I saw your article in the paper about the unlaughed taking of federal returns by the state of Montana.

I am the 73 year old resident of a rural small town. I pay income taxes on my annuity.

I never filed an amended return and understood because of this I am not eligible to receive a refund.

At the time I should have filed an amended return I asked my tax accountant about it and she said "Don't bother they will never pay it." I have now changed accountant and he did not give me any encouragement either. I don't know what year to check back on to see how much is paid.

I would like to know if I can still do anything to collect my overpayment. I enclosed as a self address envelope. I would appreciate any advice from you.

Sincerely,
Stacy Carlson
Dana, MT 59824

SENATE TAXATION

DATE

EXHIBIT NO. 98

BILL NO. 5039

January 24, 1995

SENATE TAXATION
DATE January 24, 1995
EXHIBIT NO. 99
BILL NO. SB 39

10-3-94

Dear Sir,

My husband was an employee
of the Bureau of Reclamation
passed away Dec 18th 1982.

I was not aware there was
a dead line on when they were
filed. I had not mailed the
returns till the 15th of April⁹⁴
mailed them certified mail.

I recieved a refund of 1,280.74
for the 1988 tax year on
Feb 2 of 1994. and recieved
a check for \$555.78 for 1983.

on July 29 - 94.

I am sending you copies
and hope you can help me
out.

Sincerely

Mavis E. Ryan
1610 Parkhill Dr
Billings, Mt
59102

Phone

406-252-1920

SENATE TAXATION

DATE January 24, 1995EXHIBIT NO. 108BILL NO. SB 39

Feb. 3, 1994

Thomas A. Reeves
3012 Low. Riv. Rd. #24
Great Falls, MT 59405

Rick Davis CPA:

I did get a refund for year 1988.
By the time I found out about the
other years - 83 - 84 - 85 - 86 and 87,
which was only this year, the State
informed me that it was too late.

Of course I would like to find
out if any thing can still be done
about this problem.

Will appreciate your help and advice.

Sincerely,

Thomas A. Reeves

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 101

BILL NO. SB 39

124 Crystal Drive

Lewistown, MT 59457

October 3, 1994

Rick Davis, CPA
121 No. Main St.
Plentywood, MT 59254

Dear Mr. Davis:

Re: Your notice in the G. F. Tribune of 10-2-94 regarding
State income tax refunds to Federal employees.

Enclosed are copies of letters (1) from the State income tax
division dated 4-6-94, and (2) my letter of 9-27-94 to them
requesting re-consideration of their rejection of the refund
for 1987.

I strongly believe that the statute of limitations of 5 years
applies to ordinary and usual situations for tax refunds.
This case of federal retirement income refunds is unusual and
special, and should receive extra consideration.

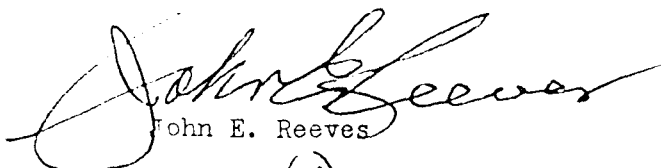
Refunds for the years 1983-84-85-86 and 1988 years were re-
ceived. I should receive \$1,523, plus interest, for the 1987
year.

I filed my 1987 amended return on August 17, 1993 which was
the date of my 1988 amended return. These were filed as a
result of the Montana News Release of August 13, 1993, a copy
of which is enclosed. I had not filed earlier as explained
in my letter to the Tax division of 9-27-94.

I would be interested to know how many replies you received,
and if there are others who have not received refunds. Several
people have mentioned to me that they did not even file.

Any assistance or information you can provide in this matter
will be appreciated.

Sincerely,


John E. Reeves

Encl. (x)(4)

My mailing address after
October 17th will be:

Desert Sun Condo # 713
3270 So. Goldfield Rd.
Apache Junction, AZ 85219

Also enclosed is copy of letter from State
of Mont. to retirees, dated Aug. 25, 1993

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 102

BILL NO. SB 39

Eick Larvis,
CEA
121 N. Main St.,
Plentywood, MT 59254

Sir,

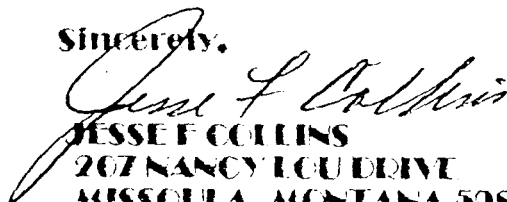
Saw your ad in the Missoulian and thought I would contact you in reference to retirement pay. I retired from the U.S. Army in 1977. Since I have been illegally taxed and not given the opportunity to request any refund due to lack of information or communication I am hoping that I can get some information from you. Any information will be helpful.

I did contact the finance people for the state but they said because I did not file I am not eligible for a refund. But the way I see it I have been illegally tax. That's the bottom line. I feel they owe me a refund but my hands are tied at this time.

Hoping you can help resolve this problem.

Thanks for your time.

Sincerely,


JESSE F COLLINS
207 NANCY LOU DRIVE
MISSOULA, MONTANA 59801
728-8563

SENATE TAXATION
DATE January 24, 1995
EXHIBIT NO. 103
BILL NO. SB 39

Busby, Montana 59016
November 23, 1994

Rick Darvis, C.P.A.
408 Lasater - Box 291
Plentywood, Montana 59254

RE: Federal Retirees


Dear Mr. Darvis:


I am well aware of the situation about the Federal Retirement. I think we are entitled to the whole amount what we have earned during the years we worked.

We believe that the tax system is wrong to tax our retirement again. These past years they have been taking another thousand dollars from our retirement to pay to the state, also the newspaper notice on U.S. Supreme Court has ruled that the State of Montana incorrectly taxed the retirement income of Federal Retirees and they should release the whole amount owed to all Federal Retirees.

We are part of this movement and take any action in legal status, your help is needed on the matter. Please respond.

Respectfully Submitted,


Gilbert Littlewolf


Marie Littlewolf

P.O. Box 283
Busby, Montana 59016
406-592-3693
(Unlisted)

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 104

BILL NO. SB 39

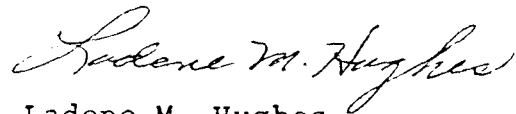
November 18, 1994

Rick Davis, CPA
121 N. Main St.
Plentywood, MT 59254

Dear Mr. Davis,

I am one of the federal retirees who did not receive a refund on my retirement income for the years 1985 and 1987. Will you please let me know what your advertisement is about?

Sincerely yours,



Ladene M. Hughes
2621 Garland Drive
Missoula, MT 59803
Tel. 406-251-3648

SENATE TAXATION

DATE January 24, 1995

EXH.BIT NO. 105

BILL NO. SB 39

Nov. 19, 1994

Dear Sir:

I am a widow of a retired Forest Service worker and am receiving his annuity.

During the time the retirements were being taxed incorrectly, my accountant advised against filing amended returns so I was not on record in the class action suite.

Do I have any recourse in this matter?

Thank you for your time.

Sincerely,

Harriet L. Ryan

(Mrs John E. Ryan)

Box 156

Philipsburg, MT 59858

Governor Marc Racicot
Capital Station
Helena, MT 59620

SENATE TAXATION
DATE January 24, 1995
EXHIBIT NO. 106
BILL NO. SB 39

November 17, 1994

Honorable Marc Racicot:

I am very disappointed with the final outcome of the Federal Retirees Refunds.

I was informed not to file amended returns after I filed for 1983 and 1984 because the Department of Revenue would be overwhelmed with amended returns.

I was informed once the U.S. Supreme Court and the Montana Supreme Court made a definite decision, we would be informed when and how to file an amended return. When I learned that the refunds were going to be paid and Edmund F. Sheehe, Jr. was representing the retirees, I called his law office to be informed that since I had received the notice of Class Certification and Settlement, everything was in order and I would receive my full refund. When I received only 1983 and 1984 refunds, I called Mr. Jeff Miller, Administrator, Montana Department of Revenue and was informed that because I failed to file timely amended returns for the years 1985, 1986 and 1987, that I was only entitled to those years I was refunded and that I could not file for the other years because the Statute of Limitations have expired and only through legislation could I receive my full refund.

I am requesting that your office submit the legislation necessary that would enable over two thousand Federal retirees to collect the estimated \$12 Million dollars the State of Montana owes them.

Sincerely,



James V. Racicot

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 107

BILL NO. SB 39

Edward T. Wosepha
3345 East University, #78
Mesa, AZ 85213-8669

Nov. 19, 1994

Mesa, AZ

Reck Davis, CPA.
121 N. Main St.
Brentwood, Mt 59254

R.T. Tax Refund

Dear Sir,

We received one check dated
7-29-94 # 05879283 in the
amount of \$705.32. We were
on vacation when the check arrived
as the accompanying papers were lost.
However we know we received payment
for only one year.

We assumed that filing the request
we received was all that was necessary.
Nothing more was said so we were
very surprised but of course disappointed
when we received only a partial
payment.

Any help you can give will be
appreciated.

Sincerely,
Edward T. Wosepha

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 108

BILL NO. SB 39
Envi, 94

Billy L.ickers

2325 CROOKSTON

MISSOULA, MT

59802

Rick Davis CPA.

121 N Main St.

Plentywood MT 59254

Rick:

Noticed your "add" in the Missoulian. I am retired (tail end of 1980) Civil Service; Forest Service. This spring I took my application for refund and all the related data to my CPA tax man. He informed me that I was too late: the door had been closed and my filing would be a wasted effort as per Section 15-30-147, MCA. I went away of the law that ages required amended returns within a five year period. I guess, I'm surprised that my tax accountant didn't either -

Do I have any recourse?

Thank you

Billy L. Ickers-

SENATE TAXATION

DATE January 24, 1995EXHIBIT NO. 109BILL NO. SB 39

DECEMBER 17, 1994

To Whom it may concern;

When we first read in our Great Falls Tribune, that the State of Montana was finally owning up to the fact that the State of Montana had illegally taxed the Federal retirees, and were about to make ammends, we were delighted.

Then we find out, upon recieving our first check (with interest), that if we had failed to protest those years in question-----well tough luck-----, you are just out the money due you. The State has stolen the money and " picked up all the marbles" , too bad, you lose!!

I go out in my garage to work, turn on the music, and try to forget about things I feel I cannot change.

I retired in 1980, and put in for the refund when finding out about it. I got paid for 1982 in the amount of \$335.00 including interest. I do believe I should have been paid for 1981 _ 1989 .

One year my gross income was \$33,000.00. Most years it was \$23,000.00, \$24,000.00, and the earlier years around \$20,000.00. This was including savings, or it would have been less.

I sure wish there was some way our Govt. Officials could do their job right, and not cheat us out of what we are entiteled to.

I will join forces with anyone that thinks we have a chance to receive what is rightfully our. Thanks for listening to me.

*I saw this letter from
Arizona, (made a copy) & figured
you would care to read or you
may have, they treat them pretty
bad.*

Sincerely,

Paul M. Haggart
3457-8th.- Ave. N.
Great Falls, Montana 59401

Ph; 406-453-6178

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 110

BILL NO. SB 39

Mesa, AZ

Nov. 8, 1994

Dear Mr. Jensen,

We received a check # 05879283 dated 7-29-94 for \$705.32. This was for one year. The check arrived while we were on vacation and the accompanying explanation was lost. However it was for only one year. We were surprised and disappointed as we understood the papers we originally filed were for the total claim.

If you can help we will be most grateful.

Sincerely,

Edward T. Wozepka

Edward T. Wozepka
3345 East University, #78
Mesa, AZ 85213-8669

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 111

BILL NO. SB 39

Dear Mr. Jensen,

I thought I should write concerning that refund. My husband retired from the Highwood Post Office in 1978-1979, because of a debilitating disease, he was only 55 years old. I didn't understand a lot of what was involved in his retiring, he began as a rural carrier in 1950 out of the Eagle Bend, Post Office and in 1968 he transferred to the Highwood Post Office, for a shorter route, (Mr. Arner transferred to Eagle Bend). I am just not aware of whether Don's retirement was taxed by Montana. I know Minnesota gets their "fair" share actually Minnesota's tax system is somewhat worse than Montana's, even so, so far the Retiree incorrectly and then being

reluctant in paying a
doesn't say much in
of Montana's past capture
But when it comes to
into any tap system there
not be any show of return
on the part of the tap
I have tried to keep
what's current in regard
Carrier paper and send
to PAC etc. when ever
learning and have to
learn the last few y.
Don's health deteriorate
Anyway, thanks very

Sincerely
Mrs. Norris
Box 352
Eagle Lake,

I really liked Montana
family in Missoula
I get to visit at
Falls -

SENATE TAXATION

DATE January 24, 1995EXHIBIT NO. 112BILL NO. SB 39Jan 4, 1994

Mr. Otto E. Jensen
148 Ladahl St.
Dayton, MT 59719

Dear Mr. Jensen

We have not received a refund. What
do we do?

My husband retired July 24th 1994, he had
5 months rapid annuity. What should we
do?

We have moved from Valer and now live
in Conrad so have a change of address.

Richard E. Jensen, Jr.
#16 First Union Court
Conrad, MT 59425-2718

SENATE TAXATION

DATE January 24, 1995EXHIBIT NO. 113FILE NO. SB 39
1006, 1994

Dear Sir;

I received your card this week and am writing to say that I haven't received my refund from the Waste Carriers.

Thank you for contacting me and caring enough to get in touch with me. Is there something I can do to receive the refund?

Yours truly:

Verena R. Brunner

Verena R. Brunner
1780 9th Rd. NE
Bowie, Md. 59468-9217

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 114

BILL NO. SB 39

Lindsay, MT
Nov 2, 1994

Dear Sir:

I received the Card this morning about the retirement refund for retired carriers. As of this date I haven't received any refund of any kind.

Thank you for writing

Arnold D. Robson
PO BOX 5
Lindsay, MT 59339

STATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 115

BILL NO. SB 39

Nov. 14, 1994

Otto E. Jensen.
Dagmar mt 59219

Dear Otto:

Your postcard is the first
I have heard about state tax
on my pension. Please send
me the details -

Sincerely
Wm. E. Baxter
777 5th Ave
Victor mt 59875

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 116

BILL NO. SB 39

D. tie

I have not received anything back from the State for taxes.

I retired Feb 13 1991 so I don't know if I have anything coming.

Thank you for your card & let me know if I have anything coming

Thank's again

Bob Remine

950 4th St

Deer Lodge, Mt 54722

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 117

BILL NO. SB 39

October 5, 1994

Retired Carriers:

The U.S. Supreme Court ruled the state of Montana incorrectly taxed your retirement.

Did you receive your full refund? If not, contact your fellow retired carrier at once!

Otto E. Jensen
148 Lodahl Street
Dagmar, MT 59219

The above, on this letter, is copied from the card you sent my husband Donald L. Bergstrom - I'm writing to let you know he passed away on Aug. 5th also to find what if anything there is for me to do concerning the card you sent, & don't understand about the refund. Could you please let me know? Do & contact the Dept. of Res. (Montana)?

Sincerely,

Mrs. Donald L. Bergstrom
Box 352
Eagle Bend Mn. 56446

SENATE TAXATION

DATE January 27, 1995EXHIBIT NO. 118BILL NO. SB 39

I received a refund for 1988 but not
from years 83 thru 87.
I received a letter from Gov. Racicot. He said
he could not get the legislature to refund
to all retirees because some did not file
on time.

I have one question. If we get a refund
will it include money received as
a lump sum upon retirement?

Sincerely
J. Elling

Verification

SENATE TAXATION

DATE January 24, 1995EXHIBIT NO. 117BILL NO. SB 39

Mail, 117

Nov. 4, 1994

Dear Otto,

I received your card on
the taxing of my retirement.
I know that they said it
was not right that federal
employees were taxed while
state employees were not.

about five or six years
ago I got a small refund of
about a hundred or some dollars.
But I believe it didn't cover
what I paid in taxes.

I don't know what to
do about it except to see my
tax accountant.

Thank you
M. L. Southern, Retired
Mac Barron

Nov. 9, 1994

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 120

BILL NO. SB 39

Dear Mr. Jensen,

Finally got your card about refund. I wrote to the State auditor after they sent me a refund for 1983. I wrote and told them they owed me for 1984 but haven't heard from them. as far as I know 1984 was one of the years that they owed me.

I hope you can and will get it for me. By the way, my address is changed.

It is: Edgar R. Berard
5800 Meadow Vista Dr.
Florence, Mt. 59833-6603

P.S. We winter in Las Vegas, Nv. and have for 10 yrs. The address you sent to was my sons address but would rather have it go to my daughters address in Florence, Mt.

Thanking You

Edgar R. Berard
516-24-5257

The Claim # on

SENATE TAXATION

DATE

EXHIBIT NO. 121

DATE January 24, 1995

EXHIBIT NO. 121

BILL NO.

BILL NO.

SB 39, 1034 Terry Ave

Billings, Mt. 59102-5440

Nov. 2, 1994

Ditto E. Jensen
148 Lodahl St
Dagmar, MT. 59219

Dear Mr Jensen:

Received your card yesterday, I am one of the federal retirees who did not receive a full refund on taxes incorrectly collected by the State of Montana

Although I did receive a refund for 1988, I was told I did not file an amended tax return ^{in time} for the other years I retired from the Billings Post Office as a Rural mail carrier in 1973.

Yours truly

Thomas B. Martin

☐ TELETYPE☐ TELEGRAM TAXATION☒ MAILTO
Otto E. JensenDATE Jan. 24, 1995 AT 148 Lodahl St, Dagmar, Mt 59219SUBJECT
Mt retirement taxesEXHIBIT NO. 122DATE
Nov. 28, 1994

Regarding the income tax refunds, I have received them for 1983 thru 1988.

I have applied for refunds for 1991, 1992, and 1993, because the State of Mt. replaced the State employees yearly income the amount their income tax would have been, had they been treated the same as Federal workers--therefore, circumventing the Supreme Court ruling of equal treatment for all Federal and State employees. This was denied.

Thank you for your interest in this. Sorry I didn't answer sooner.

Jack W. Gamble

P. O. Box 47

Belt, Mt. 59412

PLEASE REPLY TO

SIGNED *Jack W. Gamble*

REDIFORM®

4S 461

POLY PAK (50 SETS)

4P461

Wednesday, May 29, 1991

Law changes taxing of retirement income

HELENA (AP)— Gov. Stan Stephens has signed into law a bill that changes the way Montana taxes the income of retired people.

Senate Bill 226 was among the last 10 bills from the 1991 Legislature that the governor disposed of Friday. He signed five and vetoed five.

SB226, exempts the first \$3,600 of income for all government retirees, regardless of whether they worked for federal, state or local governments. The exemption begins to decline when an individual's income reaches \$30,000 and would be lost entirely when it reaches \$31,800.

The measure will raise about \$21

A bad law

Revenue Director Denis Adams says a ruling by the Supreme Court has no effect in Montana because the 1991 legislature changed the laws to tax all government and military retirees the same. I wonder if Mr. Adams still doesn't know or remember Senate Bill 226. This bill was introduced at the request of his department, giving all state, county and city employees a raise in their retirement pay to offset the tax applied.

Civil service and military retirees did not receive this raise. In effect with this law, all retirees are not taxed the same, which makes this bill unconstitutional and it is being challenged in courts. This bill violates our state constitution.

CLINT SENNETT, Gilt Edge Stage, Box 4110, Lewistown

SENATE TAXATION

DATE January 24, 1995EXHIBIT NO. 123BILL NO. SB 39

RE: Your card taped retirement

Otto:

We belonged to NARFE & they were fighting for a refund of taxes pd on federal wages because state workers were given the rite to not pay taxes on theirs. I never believed we had the rite to a refund, but when everyone else was about to get it (same old story) we should also. We rec'd 1984 payment but for some reason no other year. Later we rec'd another check (small). Joe retired in 1976 & I retired in 1980, I have no idea why the year 1984. I thought I'd let you know. Is that the correct procedure. We are moving back to Mont. We will be moving to Cardwell to our cabin up So. Boulder. Not till spring tho. If you have any information let us know in enclosed envelope.

We have no snow yet. Going to Mexico next week 14th & will be gone couple weeks. How are all of you? Joe has been pretty

SENATE TAXATION

DATE January 24, 1995

EXHIBIT NO. 124

BILL NO. SB 39

Curie, Mt.

Nov. 21, 1994

Dear Otto and Rick,

Thank you for your letter.

I wrote the Governor last Sept. explaining to him that I felt any incorrectly collected tax against Federal Retirees should be returned, regardless if there had been an amended tax form sent in or not. They killed a bill to refund the money, leading me to think there was no need to file. They passed another one without me knowing about it so a form could be filed in time.

But regardless of a form, if the tax was incorrectly taken it should be refunded.

He will appreciate any help you can do for us. Thank you.

Sincerely,
Robert C. Patrick

SENATE TAXATION

DATE January 24, 1995

BIT NO. 125

BILL NO. SB.39

3 Nov. 1994
Bigfork, Mont.
59911

Dear Otto,

Thanks for the information you sent.
I wrote to Gov. Rocicci a few days ago.
He will be in favor of paying the Federal
Employees, I'm sure of that. In fact, I
remember he took a stand on this not too
long ago in an article I read in the
Great Falls Tribune.

We'll see what happens.

Thanks again -

Sincerely,

Callie Chamberlain



Dick & Callie
Chamberlain
61 Lakeshore Dr.
Woods Bay
Bigfork, MT 59911

SENATE TAXATION

DATE January 24, 1994

EXHIBIT NO. 126

BILL NO. SB 39

Eureka, Mt.

Nov. 2, 1994

Dear Mr. Jensen,

Received your card yesterday. No
we did not receive our full refund
from the state. But we did send
an amended tax form to both the
governor and state Revenue. Both
write back that because they were
not filed by April 15, '94 - they we
were not entitled to receive a refund.

But if it was incorrectly calcu-
lated, we feel it should be returned
regardless of when it was filed.

Anything you or anyone else can
do will be appreciated and supported.

Thank you.

Robert & Edith Patuck

Box 212

Eureka, Mt. 59912

RECAP OF FEDERAL RETIREE LAWSUIT AND REFUND PROCESS

SENATE TAXATION

DATE January 24, 1995EXHIBIT NO. 127BILL NO. SB 39HISTORY

March 29, 1989

U. S. Supreme Court- Davis v. Michigan

* April 10, 1989 (5 days to file these returns)

Department issues PRESS RELEASES to all media advising taxpayers to file amended returns

* July 25, 1989

Department issues 2nd PRESS RELEASE advising taxpayers to file amended returns and the abeyance process for those amended returns already received

September, 1989

Judge Sherlock orders a stay from collecting additional tax based on the Federal pensions

* October 20, 1989

Department issues 3rd PRESS RELEASE Inviting claims for all open years, advise abeyance process

985 Claims 3236 July, 1990 Negative Press

District Court rules no refund-no retroactive application

1986 Claims 2760 February, 1991

District Court rules on appeal according to "Chevron Test"- no retroactive application-no refunds

987 Claims 2604

* August 13, 1993

PRESS RELEASE re: Governor Racicot's determination on the 1988 tax year. Announcement stated refunds to be paid to those taxpayers that had filed returns and paid tax on the Federal pensions.

1988 Claims 5366 - 1988

* February 24, 1994

Department issues PRESS RELEASE explaining potential settlement and advising of court hearing.

March/April, 1994

Plaintiffs' attorney, Mr. Sheehy, mails each claimant notification of potential settlement and court hearing.

* Copies of these news articles are in section marked "Press"

BACK PAGE

LUNCHEON MEETINGS - Department personnel accepted all invitations to speak with retiree groups and organizations such as NARFE, Local Chapters of CPA's and LPA's.

TAX BOOKLET INSTRUCTIONS - 1989 through 1993 tax booklets included language to advise taxpayers of the need to file amended returns. Instructions also told of developments related to the lawsuit.

NO, only 1989 and 1993 tax booklets said to file amended returns. Nothing was said in the middle years (1990-92). The booklets had negative news which discouraged retirees to file.

RECAP OF REFUNDS ISSUED

Total number of taxpayers that filed timely claims	5,634	
Total 1983 claims	3,576	<i>April 10th press releases left only 5 days to</i>
Total 1984 claims	5,016	<i>Tax booklets said to file amended returns and several press releases on the subject.</i>
Total 1985 claims	3,236	
Total 1986 claims	2,760	<i>Few press releases, negative reports, and no language to file amended returns in the tax booklets.</i>
Total 1987 claims	2,604	
Total 1988 claims	5,366	<i>Tax booklets said to file amended returns and several press releases on the subject.</i>
Total number of claims filed:	22,558	

Taxpayers claims denied as not timely filed - approximately 400

TOTAL CLAIMS PAID (1983 THROUGH 1987)

Number of Refunds Processed	5,634
Tax Refunded	\$8,719,558.00 <i>\$7.8 million was not refunded.</i>
Interest Refunded	<u>2,021,222.00</u>
TOTAL	\$10,740,780.00
Attorney Fees	300,000.00

*Back
Page
#8*

State of Montana

Stan Stephens, Governor

EXHIBIT 127
DATE 1-24-95
SB 39

Department of Revenue

Ken Nordtvedt, Director

Income and
Miscellaneous Tax Division
Jeff Miller, AdministratorKen Nordtvedt, Director
444-2460NEWS RELEASE APRIL 10, 1989

REFUNDS BASED ON EXCLUSION OF FEDERAL PENSIONS

Contact: Jeff Miller
444-2837

FILE COPY

5 days to file amended return

Director of Revenue Ken Nordtvedt announced the following information relative to the reporting of federal pensions for the years ended December 31, 1983 through December 31, 1988.

The Davis v Michigan, U. S. (198), decision has raised numerous questions regarding Montana's taxation of federal pensions, past and present. The present taxation of all pensions is being considered by the 51st Legislature. The question of whether the Davis decision applies to Montana returns filed for past years is yet unanswered.

The issue of retroactive application of Court decisions involving significant state tax issues is complicated. The questions involve state and federal constitutional considerations recently raised in two separate cases now pending before the U.S. Supreme Court. Arguments have been heard and decisions are expected in the next few months. Until the Department has the benefit of these Court decisions, no refunds for these earlier years will be issued.

In the interim, the Department is advising the following steps for taxpayers with federal civil or military service, pension income:

1. The 1988 returns due this Monday, April 17th should include federal pension income in excess of the \$ 3,600 exclusion. Current year refund claims excluding the federal pension income in excess of current law will be delayed.
2. Taxpayers with federal pension income in 1983 should act now to preserve their right to a possible refund. The last day for filing a claim for refund for the 1983 tax year is Saturday, April 15, 1989. (Claims for 1984 and later years are not due until April 15, 1990 at the earliest.) Please file all claims on a Montana Amended Form 2X.

Back
Page

AUG 13 '93 01:28PM MONT GOVERNORS OFF

P.1/2

OFFICE OF THE GO

STATE OF MONTANA

MARC RACICOT
GOVERNOR

FILE COPY

NEWS RELEASE

FOR IMMEDIATE RELEASE
AUGUST 13, 1993CONTACT: MICK ROBINSON
444-2460GOVERNOR TO REFUND TAXES PAID ON FEDERAL RETIREMENT INCOME

Governor Marc Racicot announced today that Montana will pay what could be as much as \$6 million in refunds to federal retirees who paid state income taxes on federal pension income for 1988. In addition, Racicot said he will recommend to the Legislature that refunds be made for 1983-87.

The Department of Revenue has determined that the state has a legal obligation to provide refunds, to include both taxes and interest, for 1988 because of advice given by the Department to federal retirees in 1989. In March of 1989 the U.S. Supreme Court said states could not tax federal pensions differently than state pensions. Twenty-three states, including Montana, from 1983 through 1988, taxed state retirement income differently than federal retirement income. Following the 1989 Supreme Court decision, the state advised federal retirees to go ahead and pay their entire 1988 tax bill and subsequently file for a refund for the tax on Federal pension income. In light of the most recent U.S. Supreme Court decision, Harper v. Michigan, it is now clear that this advice was wrong.

Verquin

Approximately 250 federal retirees decided not to follow the Department's advice and withheld payment on their federal pension income for 1988. These tax payers will not have to pay tax on their federal pension income for 1988. However, the majority of federal retirees followed the Department's advice. They paid the tax for 1988 and filed for a refund. The Department of Revenue has determined that Montana has a legal obligation to refund taxes to those persons who relied upon the advice provided and paid the taxes for 1988. Mick Robinson, Director of the Department of Revenue, said, "It is unfair to penalize Montana taxpayers because they followed the advice given by the Department in 1989. It is important to us that taxpayers trust the advice we give them."

MORE

End Page

AUG 12 '93 01:25PM MONT GOVERNORS OFF

P.2/2

EXHIBIT 127
DATE 1-24-95
SB 39

Governor Racicot also announced that he would recommend to the Montana Legislature that the state make refunds of taxes and interest of federal pension income for tax years 1983 through 1987, estimated at approximately \$14 million. The Governor said that since the Harper decision suggests there may not be a legal obligation to make refunds for those years, the Legislature would have to give its approval before any expenditure of state funds could be made for this purpose. Governor Racicot said, "It's just the right thing to do. Although there may be no legal obligation to do so, as a matter of fairness and equity it should be done."

It is the opinion of the Revenue Department based on the U.S. Supreme Court's ruling and applicable law that no legal obligation exists to pay refunds for 1983 through 1987 because no erroneous advice was given by the Department for those years like the advice given for 1988. The Department will continue to address those claims in that light until the Legislature has a chance to act on the Governor's recommendation to provide refunds for 1983 through 1987. Governor Racicot emphasized that the retirees were unaware during those years that the tax would eventually be found improper. He stated that fairness dictates that this matter be settled in a manner that would make the retirees whole again. Federal retirees did not pay taxes on their pensions in 1989 or 1990. In 1991 the state began to tax state and federal retirement income in the same manner, so as not to violate the law.

Robinson said that it is important for all federal retirees who paid the tax for 1988 and have not yet done so to file a claim for a refund. The time limit for filing for refunds for 1988 is five years from the date the 1988 return was due. For most people the due date is April of 1994. If a timely claim is not filed, a refund cannot be issued. The state currently has approximately 2,000 claims filed for total refunds of approximately \$2 million in taxes and interest. If all of the eligible retirees file, the refunds may reach \$6 million.

Isn't the lack
of language
instructing the
taxpayer to file
amended returns
erroneous ??

SENATE TAXATION

DATE January, 24, 1995
EXHIBIT NO. 128
BILL NO. SB39

NAME Elmer FAUTH
ADDRESS 1210 55TH AVE SO
HOME PHONE 727-6338 WORK PHONE _____
REPRESENTING NARF & MSCA
APPEARING ON WHICH PROPOSAL? SB 39
DO YOU: SUPPORT ☒ OPPOSE _____ AMEND _____

COMMENTS:

^{TAKES WERE}
Please support this bill be cause ~~it was~~
illegally taken so lets be fair & pay this or
Give us Credit - we spent millions to Replace
Wolfs lets be fair to humans let - we build
Fancy Jails to house criminals - lets pay or
Give Credit on this Mistake

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

RECAP OF FEDERAL RETIREE LAWSUIT AND REFUND PROCESS

HISTORY

March 29, 1989	U. S. Supreme Court- <u>Davis v. Michigan</u>
* April 10, 1989	Department issues PRESS RELEASES to all media advising taxpayers to file amended returns
* July 25, 1989	Department issues 2nd PRESS RELEASE advising taxpayers to file amended returns and the abeyance process for those amended returns already received
September, 1989	Judge Sherlock orders a stay from collecting additional tax based on the Federal pensions
* October 20, 1989	Department issues 3rd PRESS RELEASE Inviting claims for all open years, advise abeyance process
July, 1990	District Court rules no refund-no retroactive application
February, 1991	District Court rules on appeal according to "Chevron Test"- no retroactive application-no refunds
* August 13, 1993	PRESS RELEASE re: Governor Racicot's determination on the 1988 tax year. Announcement stated refunds to be paid to those taxpayers that had filed returns and paid tax on the Federal pensions.
* February 24, 1994	Department issues PRESS RELEASE explaining potential settlement and advising of court hearing.
March/April, 1994	Plaintiffs' attorney, Mr. Sheehy, mails each claimant notification of potential settlement and court hearing.

* Copies of these news articles are in section marked "Press"

DEPARTMENT OUTREACH

News articles appeared in all major newspapers; Missoulian, Great Falls Tribune, Billings Gazette, Montana Standard.

According to Librarians at these publications, the articles concerning this issue numbered in the 100's.

Samples of News Articles--attached.

OTHER OUTREACH EFFORTS

MASS MAILINGS

Within 6 months of receipt of refund claims, statute mandates taxpayers be notified of refund denial or refund allowed. Letters along with form for taxpayer signature sent explaining refunds being held in abeyance until final resolution.

Dates of mass mailings:

9-29-89	}	
3-30-90	}	
9-30-90	}	
3-22-91	}	
9-20-91	}	Sample correspondence and appeal form
3-20-92	}	attached
9-30-92	}	
4-30-93	}	

TAX PRACTITIONER INSTITUTES - Each year, 1989, 1990, 1991, 1992, 1993 and 1994, the Department gave presentations to the Tax Practitioner Institute Sessions in Great Falls, Missoula and Billings. At each of these sessions, a Department of Revenue representative would explain the Department's procedure and explain to the tax practitioners that amended returns for each year were required.

ANNUAL CPA/LPA LIAISON MEETINGS - Liaison meetings were held each year (1989-1993) between the CPA's and again with the LPA's. In those meetings, the Department informed the attendees of the retiree process and procedures.

VITA & TCE TAX TRAINING - Early each year (1989 - 1993) prior to the tax filing season, the Department coordinates training sessions with Vita (Volunteer Income Tax Assistance) and TCE (Tax Counseling for the Elderly). During those sessions, the instructor would give direction on the requirements for application of the refunds relating to the lawsuit.

DEPARTMENT TELEPHONE CONTACTS - Each employee in the agency that dealt with the situation was given guidance and consistent information was given to those taxpayers and preparers that called the office seeking advice.

LUNCHEON MEETINGS - Department personnel accepted all invitations to speak with retiree groups and organizations such as NARFE, Local Chapters of CPA's and LPA's.

TAX BOOKLET INSTRUCTIONS - 1989 through 1993 tax booklets included language to advise taxpayers of the need to file amended returns. Instructions also told of developments related to the lawsuit.

RECAP OF REFUNDS ISSUED

Total number of taxpayers that filed timely claims	5,634
Total 1983 claims	3,576
Total 1984 claims	5,016
Total 1985 claims	3,236
Total 1986 claims	2,760
Total 1987 claims	2,604
Total 1988 claims	5,366
Total number of claims filed:	22,558

Taxpayers claims denied as not timely filed - approximately 400

TOTAL CLAIMS PAID (1983 THROUGH 1987)

Number of Refunds Processed	5,634
Tax Refunded	\$8,719,558.00
Interest Refunded	<u>2,021,222.00</u>
TOTAL	\$10,740,780.00
Attorney Fees	300,000.00

TOTAL CLAIMS PAID (1988)

Number of Refunds Processed	5,366
Tax Refunded	\$ 3,425,116.00
Interest Refunded	<u>1,382,231.00</u>
TOTAL (1988 ONLY)	\$ 4,807,232.00
GRAND TOTAL FOR ALL YEARS	<u>\$ 15,648,012.00</u>

Since the refunds have been processed, many taxpayers have written to express concerns and disappointment in the fact that they did not receive refunds. These cases have been handled on a case by case basis. The Income Tax Division has researched each file carefully to determine the number of returns filed for the taxpayer, etc.

Documents were pulled from the warehouse, to determine whether the taxpayers had sent the amended return(s) stapled to a current year return. In other words, no stone was left unturned when searching for amended returns taxpayers claimed to have filed.

Some taxpayers filed for one year (1983 as an example) apparently thinking the filing of that amended return would "protect their rights for all years". Each year stands alone and must have an amended return filed in order to claim a refund.

State of Montana

Stan Stephens, Governor

EXHIBIT 129

DATE 1-24-95

SB 39



Department of Revenue

Ken Nordtvedt, Director

Income and
Miscellaneous Tax Division

Jeff Miller, Administrator

Ken Nordtvedt, Director
444-2460

FILE COPY

NEWS RELEASE APRIL 10, 1989

REFUNDS BASED ON EXCLUSION OF FEDERAL PENSIONS

Contact: Jeff Miller
444-2837

Director of Revenue Ken Nordtvedt announced the following information relative to the reporting of federal pensions for the years ended December 31, 1983 through December 31, 1988.

The Davis v Michigan, U. S. (198), decision has raised numerous questions regarding Montana's taxation of federal pensions, past and present. The present taxation of all pensions is being considered by the 51st Legislature. The question of whether the Davis decision applies to Montana returns filed for past years is yet unanswered.

The issue of retroactive application of Court decisions involving significant state tax issues is complicated. The questions involve state and federal constitutional considerations recently raised in two separate cases now pending before the U.S. Supreme Court. Arguments have been heard and decisions are expected in the next few months. Until the Department has the benefit of these Court decisions, no refunds for these earlier years will be issued.

In the interim, the Department is advising the following steps for taxpayers with federal civil or military service, pension income:

1. The 1988 returns due this Monday, April 17th should include federal pension income in excess of the \$ 3,600 exclusion. Current year refund claims excluding the federal pension income in excess of current law will be delayed.
2. Taxpayers with federal pension income in 1983 should act now to preserve their right to a possible refund. The last day for filing a claim for refund for the 1983 tax year is Saturday, April 15, 1989. (Claims for 1984 and later years are not due until April 15, 1990 at the earliest.) Please file all claims on a Montana Amended Form 20.

NEWS RELEASE
April 11, 1989
Page 2.

Refund claims received will be held in abeyance until the Department reaches a final decision on these refunds.

Taxpayers wishing to await this decision for purposes of filing their 1988 return must request an extension on or before April 17th, 1989. Extensions will be automatically granted a 6 month period. Returns filed on extension must include tax due plus interest at the rate of .75 % /mo., (9 % / yr. from April 17th until filed.

Questions? Please contact the Department of Revenue Income Tax Division at 1-800-332-6103 or 444-2837 in Helena. Toll free hours are from 8:00 A.M. to 5:00 P.M. daily, through April 17th.

State of Montana

Stan Stephens, Governor

FILE COPY



Department of Revenue

Ken Nordtvedt, Director

Income and
Miscellaneous Tax Division

Jeff Miller, Administrator

Ken Nordtvedt, Director

NEWS RELEASE JULY 25, 1989

MONTANA TAXATION OF FEDERAL PENSIONS

Contact: Jeff Miller
444-2837

Director of Revenue Ken Nordtvedt announced the following clarification regarding reporting federal civil service and military pensions for Montana Individual Income Tax purposes.

The Legislature's inaction on the taxation of pensions has required the Department to implement the findings of Davis v Michigan Department of Treasury, 489 U. S. (1989). This is the March 28, 1989, U.S. Supreme Court decision which declared unconstitutional Michigan's preferential treatment accorded state pensions over federal pensions.

After researching the questions raised by Davis V. Michigan, the Department is announcing how it intends to apply the decision to Montana taxpayers.

Prospectively. - Given the similarity of the Michigan and the Montana laws and the Supreme Court mandate, our interpretation is that Montana must recognize the Davis precedent for future years. Accordingly, for tax years ending after the date of the decision, Montana will permit the exclusion of 100% of federal civil service and/or military pensions. For most taxpayers this change will be reflected on the 1989 tax return which will be due on April 16, 1990. This treatment will remain in effect until the Montana Legislature or a Montana Court directs a change.

Retroactively. - The issue of retroactive application of the Davis holding involves state and federal constitutional considerations many of which have been raised in litigation now pending in Montana and the U.S. Supreme Court. Until the Department has direction from these Court decisions, no refunds will be issued for tax years ended March 28, 1989 and earlier. Taxpayers who excluded federal pension income in excess of the \$3600 exclusion on their 1988 returns will be assessed by the Department in the near future.

NEWS RELEASE
JULY 25, 1989
PAGE 2.

Refund claims involving this issue filed with the Department will be held in abeyance. If refunds are to be issued, taxpayers will receive interest at the rate of 9% per year to compensate for the delay.

Questions? Please contact the Department of Revenue Income Tax Division at 444-2837 in Helena.

State of Montana

Stan Stephens, Governor

FILE COPY

EXHIBIT 129

DATE 1-24-95

SB 39

Income and

Department of Revenue

Denis Adams, Director



Miscellaneous Tax Division

Jeff Miller, Administrator

Denis Adams, Director

News Release October 20, 1989

REFUND CLAIMS RELATED TO THE EXCLUSION OF FEDERAL PENSION INCOME.

Contact: Jeff Miller
444-2837

Director of Revenue Denis Adams announced the following developments regarding refund claims related to excluding federal civil service or military pensions. These claims were filed with the Department in response to the U.S. Supreme Court decision earlier this year, entitled Davis v. Michigan.

The Department recently concluded a mailing to all taxpayers who have filed refund claims related to this issue. The years open to possible refunds are 1983 through 1988. The Department's letter was to serve two purposes: the first, to act on all refund claims filed to date. The second purpose was to provide an update on the status of this important issue.

The Department indicated in the mailing its intent to deny the refund claims and place the claims "on hold" while awaiting the outcome of a pending law suit. The lawsuit was filed in the 1st Judicial District Court and is expected to resolve the outstanding legal questions concerning this complicated issue.

If you, or anyone you know or represent, filed a claim and did not receive our letter dated September 29th, please contact the Department. The Department's letter requires a response by October 29, 1989. Failure to respond by then, may result in the taxpayer incurring considerable additional time and expense in pursuing alternative appeal processes.

If you had more than \$3,600 in federal civil service or military pension income for any of the years 1984 - 1988, and have not filed a claim, you may be eligible for a refund. The deadline for filing an amended 1984 return is April 16, 1990.

If you have questions or require forms, please call the Income & Miscellaneous Tax Division at 406-444-2837.

OFFICE OF THE GO
STATE OF MONTANA

MARC RACICOT
GOVERNOR



FILE COPY

NEWS RELI

FOR IMMEDIATE RELEASE
AUGUST 13, 1993

CONTACT: MICK ROBINSON
444-2460

GOVERNOR TO REFUND TAXES PAID ON FEDERAL RETIREMENT INCOME

Governor Marc Racicot announced today that Montana will pay what could be as much as \$6 million in refunds to federal retirees who paid state income taxes on federal pension income for 1988. In addition, Racicot said he will recommend to the Legislature that refunds be made for 1983-87.

The Department of Revenue has determined that the state has a legal obligation to provide refunds, to include both taxes and interest, for 1988 because of advice given by the Department to federal retirees in 1989. In March of 1989 the U.S. Supreme Court said states could not tax federal pensions differently than state pensions. Twenty-three states, including Montana, from 1983 through 1988, taxed state retirement income differently than federal retirement income. Following the 1989 Supreme Court decision, the state advised federal retirees to go ahead and pay their entire 1988 tax bill and subsequently file for a refund for the tax on Federal pension income. In light of the most recent U.S. Supreme Court decision, Harper v. Michigan, it is now clear that this advice was wrong.

Approximately 250 federal retirees decided not to follow the Department's advice and withheld payment on their federal pension income for 1988. These tax payers will not have to pay tax on their federal pension income for 1988. However, the majority of federal retirees followed the Department's advice. They paid the tax for 1988 and filed for a refund. The Department of Revenue has determined that Montana has a legal obligation to refund taxes to those persons who relied upon the advice provided and paid the taxes for 1988. Mick Robinson, Director of the Department of Revenue, said, "It is unfair to penalize Montana taxpayers because they followed the advice given by the Department in 1989. It is important to us that taxpayers trust the advice we give them."

MORE

Governor Racicot also announced that he would recommend to the Montana Legislature that the state make refunds of taxes and interest of federal pension income for tax years 1983 through 1987, estimated at approximately \$14 million. The Governor said that since the Harper decision suggests there may not be a legal obligation to make refunds for those years, the Legislature would have to give its approval before any expenditure of state funds could be made for this purpose. Governor Racicot said, "It's just the right thing to do. Although there may be no legal obligation to do so, as a matter of fairness and equity it should be done."

It is the opinion of the Revenue Department based on the U.S. Supreme Court's ruling and applicable law that no legal obligation exists to pay refunds for 1983 through 1987 because no erroneous advice was given by the Department for those years like the advice given for 1988. The Department will continue to address those claims in that light until the Legislature has a chance to act on the Governor's recommendation to provide refunds for 1983 through 1987. Governor Racicot emphasized that the retirees were unaware during those years that the tax would eventually be found improper. He stated that fairness dictates that this matter be settled in a manner that would make the retirees whole again. Federal retirees did not pay taxes on their pensions in 1989 or 1990. In 1991 the state began to tax state and federal retirement income in the same manner, so as not to violate the law.

Robinson said that it is important for all federal retirees who paid the tax for 1988 and have not yet done so to file a claim for a refund. The time limit for filing for refunds for 1988 is five years from the date the 1988 return was due. For most people the due date is April of 1994. If a timely claim is not filed, a refund cannot be issued. The state currently has approximately 2,000 claims filed for total refunds of approximately \$2 million in taxes and interest. If all of the eligible retirees file, the refunds may reach \$6 million.

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State of Montana

Marc Racicot, Governor

FILE COPY



EXHIBIT 129

DATE 1-24-95

SB 39

Department of Revenue

Mick Robinson, Director

P.O. Box 202701

Helena, Montana 59620-2701

NEWS RELEASE FEBRUARY 24, 1994

POTENTIAL SETTLEMENT OF THE FEDERAL PENSION ISSUE

Contact: Mick Robinson
444-2460

Mick Robinson, Director of the Department of Revenue, announced today the Department has reached a tentative, out-of-court settlement of some important, long-standing litigation concerning the taxation of federal retiree pension income for the years 1983 through 1987.

The agreement in principle grew from efforts on the part of Director Robinson, plaintiffs and attorneys in the lawsuit, and numerous organizations representing retired federal employees.

Director Robinson said: "In addition to finally settling a protracted dispute, the settlement makes strong financial sense from the State's perspective. The settlement could represent a savings of approximately \$6 million in future interest payments." The \$6 million is an estimate of the difference in what the State will agree to pay in interest versus what could have been the

liability if the State were to lose the case in the Courts years from now.

Governor Radicot issued the following statement: "I believe that through some tough, honest, open-minded negotiations all sides of this lengthy dispute have been able to reach a reasonable and fair resolution without prolonging the disagreement and costs."

Director Robinson noted the proposed settlement will provide a full refund of back taxes and a portion of the interest. The total payout will be approximately \$10.6 million. According to Dave Lewis, Director of the Governor's Office of Budget and Program Planning, "the State's projected ending fund balance is sufficient and in fact, anticipated the potential settlement of the lawsuit within this biennium."

This lawsuit originated in April of 1989 in response to a U.S. Supreme Court decision in the matter of Davis v. Michigan. That case brought into question the disparate methods of taxing state and federal pensions as used by Montana and at least 23 other states. The issues in that case ultimately created extensive litigation here in Montana and throughout the nation that again rose to the level of the U.S. Supreme Court. The Court's most recent decision, Harper v. Virginia caused Montana's case to be remanded back to the District Court in Helena to determine whether retroactive refunds are required. The proposed settlement will

conclusively settle this lawsuit and the question of refunds for years 1983 through 1987.

Ed Sheehy Sr., the lead plaintiff in the lawsuit, stated: "We feel this lawsuit has dragged on too long. In April of this year it will have been 5 years! The settlement is what we fought for from the beginning, a cash settlement with interest." If the settlement is approved, federal retirees can expect the cash pay-out commencing in August of 1994.

The settlement follows an unsuccessful attempt to legislate a solution to this lawsuit in the December Special Session. Following that, the Governor and members of the Revenue Oversight Committee encouraged the Department to pursue settlement discussions which resulted in this tentative agreement.

Attorneys for the Department and the federal retirees will commit the details of the proposed agreement to writing this week and then present them to District Court Judge Jeffrey Sherlock for his approval. If approved by the Court, the specifics of the proposed settlement will be conveyed to each federal retiree who has previously filed a timely claim for refund for these years. Federal retirees will then have an opportunity to participate in a court hearing if they wish to take exception to the terms of the settlement. The date of the Court hearing will be determined by Judge Sherlock. If retirees agree to the terms of the settlement,

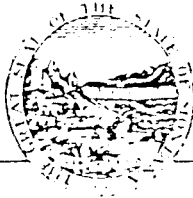
they will receive their cash payment in August.

Representatives from the National Association of Retired Federal Employees (NARFE), Northern Rocky Mountain Retirees' Association, Montana Retired Officers' Association, Western Montana Retired Military Association, Montana Noncommissioned Officers' Association, and the Office of Veterans' Affairs all participated in the settlement discussions.

State of Montana

Stan Stephens, Governor

EXHIBIT 129
DATE 1-24-95
SB 39



Department of Revenue

Ken Nordqvist, Director

Income and
Miscellaneous Tax Division

Jeff Miller, Administrator

September 29, 1989

Re: Federal / Military Pension - Refund Claims

Earlier this year you filed a claim for refund(s) by excluding your federal or military pension income from taxation. This letter is to explain certain developments in this matter and to deny your claim for refund.

In April, the Department was named in a lawsuit filed with a Montana court entitled Edmund F. Sheehy, et. al. v. The State of Montana Department of Revenue. The lawsuit raised questions on how the U.S. Supreme Court decision in Davis v. Michigan should apply in Montana. Even though a final decision has not been reached, some issues have been clarified.

The Court in the Sheehy matter directed the Department to exclude federal civil service or military pensions from taxation. This order applies to tax years 1989 and forward or until the Legislature enacts a change.

Since there are serious questions on whether a decision such as the Davis decision is applicable to earlier years, the Department is looking to the Montana Courts for guidance. In the interim, we must deny claims for refunds for years 1988 and earlier. However, the Department will consider the Sheehy case as the test case on this issue. The Court's final decision will be applied to all taxpayers who have filed a timely claim for a refund.

Montana law states that we must act on all refund claims filed within 6 months of receipt. Once the Department denies a claim, you must respond to keep your refund claim alive. This letter is your formal notice that we are denying your claim(s) for refund.

Denial of Refund
September 29, 1989
Page 2.

If you do not agree with our denial you must file an appeal with the Department. Your appeal must be filed within 30 days of the date of this letter. Assuming you timely appeal, the Department will hold your appeal in abeyance awaiting the final outcome of the Sheehy case. Therefore, a hearing would not be necessary in your case.

Our objective is to make this process as convenient and inexpensive for you as we possibly can. To help we have enclosed a partially completed form and a pre-addressed envelope for your use in filing an appeal. Timely completion and return of this form will fulfill your procedural requirements on the refunds claims you have submitted to date. Again, it is critical that you act within 30 days of the date of this letter. If you do not wish to use the enclosed form, a letter containing the same general information will suffice.

If we can help, or if you would like additional information please call me at 406-444-2837.

Sincerely,

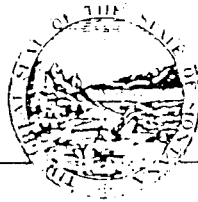
A handwritten signature in cursive script that reads "Jeff Miller".

Jeff Miller, Administrator
Income & Misc. Tax Division

Enclosures: Appeal Form and Pre-addressed Envelope

State of Montana

Stan Stephens, Governor



Department of Revenue

Ken Nordtvedt, Director

Income and
Miscellaneous Tax Division

Jeff Miller, Administrator

APPLICATION FOR APPEAL

NAME _____

SOCIAL SECURITY NUMBER _____

TAXPAYER REPRESENTATIVE _____

I/we do not agree with the Department's denial of my/our claim(s) for refund as filed.

Therefore, my signing of this document is notification to the Department of my appeal of it's action. I wish to appeal to the next level of administrative review and preserve my statutory rights to refund.

I agree with the Department that this appeal will be held in abeyance pending the final resolution of Sheehey et.al v The State of Montana, The Department of Revenue, Cause No. BDV -89-348. Both the Department of Revenue and I agree that the final decision of the Court will be applied to my appeal.


TAXPAYER(S)

DATE _____

TAXPAYER REPRESENTATIVE

PHONE NUMBER _____

MONTANA DEPARTMENT OF REVENUE
INCOME & MISCELLANEOUS TAX DIVISION


Jeff Miller, Administrator

Pension ruling could cost state up to \$20 million

EXHIBIT 129
DATE 1-24-95
SB 39

by MIKE DENNISON JUN 19 1993
Tribune Capitol Bureau

HELENA — The U.S. Supreme Court Friday may have added another \$20 million to Montana's budget woes, ruling that states that unfairly taxed federal pensioners must repay the money.

Gov. Marc Racicot and state revenue officials said it's too early to say whether the ruling means Montana must repay the entire amount.

But a lawyer representing federal retirees who sued the state said he believes it's clear Montana must cough up the refund — and that it could lead to a special session of the Legislature.

"Because of the kind of money we're talking about here, the Legislature is going to have to appropriate the money, so we're probably going to have to have a special session," said Ed Sheehy Jr. of Missoula.

Sheehy said as many as 8,000 federal retirees in Montana could end up getting state income-tax refunds from the tax years 1983-1988.

Jeff Miller, chief of the state Income Tax Division, said 6,250 federal retirees already have filed 18,000 refund claims for tax years 1983-1987, totaling \$16 million. Claims from tax year 1988 are still coming in, and will be accepted through April of next year, he said.

Of course, the repayment of back taxes to federal pensioners isn't the only thing that might force a special legislative session this year.

A Missoula-based tax-protest group plans a petition drive to suspend the state's new income-tax law, which raises \$72 million over the next two years. If the petition drive succeeds, a special session will be called to fill the \$72 million hole in the state's 1994-95 budget.

Racicot and a Revenue Department attorney said state officials will examine Friday's court ruling

Essentials

■ **The ruling:** U.S. Supreme Court rules a number of states, including Montana, owe back taxes to federal retirees who were illegally taxed in the 1983-88 tax years.

■ **How much:** Final bill for Montana could be about \$20 million.

■ **What's next:** The Montana Supreme Court must rule on the method of compensation for federal retirees.

■ **The retirees' decision:** a chronology / 2A

■ **Should taxpayers provide interpreters for the deaf in private schools?** / 2A

ing more closely before saying what might happen.

Friday's U.S. Supreme Court ruling is the followup to a 1989 decision, in which the court said states could not tax federal retirees' pensions any differently than the pensions of state and local government retirees.

Montana had been exempting from state income taxes the entire pensions of state and local government retirees. The first \$3,600 of federal retirees' pensions was exempt.

The court said Friday that its 1989 decision applies retroactively, meaning states must repay the taxes they collected unlawfully from federal pensioners.

"I feel fully vindicated by what happened today," said Ed Sheehy Sr. of Helena, the retired U.S. postal worker who sued to force Montana to repay the back taxes.

States must refund ^{person}unlawful taxes

STON (AP) — States ed billions of dollars in xes from retired federal st provide refunds if no o remedy that harm can he Supreme Court ruled t, by a 7-2 vote, said its on declaring such taxes onal must be applied ly.

sult, Virginia now faces lity of having to refund i million to 200,000 retired rkers, many of them re- the military, who paid an te tax between 1985 and

ia law, like one in Michi- : down by the high court- ed federal pensions while the pensions of retired local government employ- court said such differing- ent is unconstitutional.

; decision left an escape Virginia and other states, was great disagreement and outside the court — likelihood that any state d refunds.

Clarence Thomas wrote rt that Virginia must pro- ing taxpayers "relief

✓ Ruling costs Montana

HELENA — Montana's state budget probably faces a \$20 million loss after a U.S. Supreme Court ruling Friday that states must re- fund back taxes collected illegally from retired federal workers.

An estimated 4,000 retired federal workers would be eligible for the \$20 million in back taxes and interest from 1983 to 1988, accord- ing to Edmund Sheehy, a retired postal worker from Helena who has led the fight in Montana.

State officials had not yet seen the full text of the court's 50-page ruling on a Virginia law, but it appears the decision would apply to Montana because the laws are similar, though not identical.

"If the opinion is as some perceive, then we would have an added budget need to address," Gov. Marc Racicot said.

Budget Director Dave Lewis said a \$20 million payout would worsen an already serious state budget situation.

"Obviously if we have to pay out \$20 million, we don't have \$20 million," he said. "That just makes the budget problems more diffi- cult."

Complicating matters is the signature-gathering drive by Univer- Please see PENSIONS Page 8

consistent with federal due-process principles."

He suggested the only relief nec- essary might be a showing that tax- payers were free to withhold pay- ments while challenging the unlaw- ful taxes.

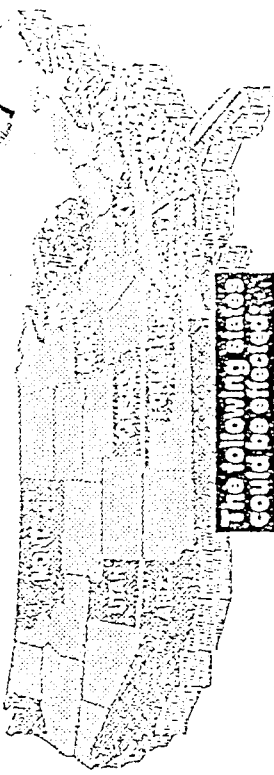
Deborah Love-Bryant, a spokes- woman for the state attorney gener-

al's office, said, "Virginia has tre- mendous flexibility. No refunds were ordered. We can proceed to the next stage of the matter — what ... relief is appropriate."

But Bob Tobias, president of the National Treasury Employees Union, said Virginia and other states eventually will be forced to

Possible tax refunds to retirees

Supreme court ruling may force Virginia to pay tax refunds of nearly \$500 million to some 200,000 retired federal workers.



Millions of dollars	Alabama	\$ 20	Iowa	\$ 41	Montana	\$ 20	S. Carolina	\$ 200
	Arizona	339	Kansas	95	New York	55	Utah	20
	Arkansas	45	Kentucky	74	N. Carolina	140	Virginia	467
	Georgia	100	Mississippi	35	Oklahoma	20	Wisconsin	70

AP/Carl Fox

pay refunds.

"They're going to have to pay a chunk of money," Tobias said. "The decision gives wiggle room only if there was a chance to attack the tax before paying it. Everybody in every state pays the tax and chal- lenges it later."

The Virginia case now will return

to the state's Supreme Court.

Friday's decision did make one thing clear — just when a Supreme Court decision should be applied not only in the future but also retroac- tively. That issue had tied the court in knots for decades.

Opinions vary as to just which states face liability.

Pensions

Continued from Page

sity of Montana law professor Rob Natelson seeking to suspend a \$7 million income-tax increase enacted earlier this year.

"I'm still operating under the assumption we're looking at a special (legislative) session to cut off \$72 million, so now we'd be looking at one to cut \$92 million," Lewis said.

Moreover, Lewis said, is the problem gets worse as time goes on. The required \$72 million will increase by \$3 million each month after July 1 if the petition drive succeeds because some of the new tax money will be spent each month.

In its 7-2 ruling Friday, the court held that in its 1989 decision on state taxation of federal pensions must be applied retroactively. It 1989 ruling in a Michigan case held that states could not levy income taxes on federal pensions while exempting pensions of retired state and local governments from taxes.

Until 1991, Montana didn't tax pensions of retired state and local government workers and teachers, but taxed all but the first \$3,600 in annual pensions received by federal and private retirees.

To address the 1989 decision, the 1991 Legislature taxed for the first time the pensions of retired state and local government employees and teachers. However, the Legislature passed an annual adjustment that returned to retired state and local government workers and teachers nearly all of the money they paid in taxes. Sheehy also has challenged that law, losing in district court but awaiting a ruling from the state Supreme Court.

Until Friday, the state continued to maintain it was not required to retroactively refund federal retirees' state taxes under the 1989 Supreme Court decision.

But Racicot, a former attorney general, said he understands the court decision Friday may contain some mechanisms that provide states with some options how to address the taxes owed.

Possibilities that have been discussed in the past include repaying the money in installments or granting the owed taxes in the form of tax credits on future returns.

Dave Woodgerd, chief counsel for the Revenue Department, said it may take several months to sort through the legal procedures.

Sheehy was pleased by the decision but critical of the Legislature.

"I think it's great to be vindicated," Sheehy said, but he pointed out some federal retirees such as his brother already have died and missed the chance to receive their back taxes.

Sheehy criticized the Legislature for not addressing the court's ruling promptly in the 1989 session and for coming up with a solution in 1991 that he believes will be tossed out in court.

"Had the Legislature looked at it at the time and given us the taxes for '89, we probably would not have been in court," he said. "They would have saved some money."

Sheehy and others have a separate case before the Supreme Court. He speculated the U.S. Supreme Court would send it back to the Montana Supreme Court, which would remand it to district court for an award.

This could take up to a year, he said.

Weather.....	8A
Obituaries, records.....	8A, 11A
Budget cuts eyed.....	9A
House kills 2 tax bills.....	9A

A Great Falls Tribune
Thursday, March 30, 1989

Metro/Montana

Revenue office mulls effect of pension ruling

PETER JOHNSON
Staff Writer

The state Revenue Department is arching what to do if this week's U.S. Supreme Court ruling strikes down Montana's law dealing with how different types of government pensions are taxed, Revenue Director Ken Nordtvedt said Tuesday.

The U.S. Supreme Court on Monday barred states from taxing pension income if they exempt the retired state- and local-government workers.

Although the case involved Michigan law, Montana appears to be one of at least 14 states with similar laws, one judge wrote.

Under Montana law, all retirement income from most local and state government employees is exempt from state income-tax collection, while only the first \$3,600 of retirement income from federal and military employees, private employees and employees retiring from other states' governments is ex-

pt.

Nordtvedt said department lawyers are having a full copy of the ruling transmitted to them for study, and are researching previous court decisions to determine, if the ruling applies here, whether the state would have to reimburse people

for the ruling.

Nordtvedt is not guaranteeing yet whether any refunds will be paid.

While it appears that the high court ruling applies to Montana, he said, some unique features of Montana's law may exempt the state from the ruling.

Accountant: Federal retirees may get refund

Keen interest was shown here in a U.S. Supreme Court ruling that could lead the state of Montana to extend to retired federal workers the same full exemption on retirement income that it gives to most retired state and local employees.

Local accountant Ray Young said several clients had called him by midmorning to find out how the ruling affected them. Some also called the Tribune and the state Revenue Department for more information.

Young said the ruling seems to apply to Montana and if it does, it appears federal retirees would be entitled to repayment of a portion of their state income-tax payments improperly collected for the past five years, which is the statute of limitations on such claims.

Mike Green, a retired Air Force master sergeant, said the state Revenue Department advised him to file for back taxes through 1983 pending a decision on whether the ruling applies here, that he "definitely intends to seek refunds."

A change in Montana law giving federal pensioners the same tax exemption that state and local retirees receive could be "a real boon" to Montana's efforts to attract more federal retirees to live here, Green said.

For instance, he said, until 1985, contributions and the fact they were being taxed could make Montana's law different, he said.

But since the ruling involves a more-favorable tax treatment as given to state pensions originally as pensions of different government employees are taxed, Nordtvedt an incentive to attract people to

said.

He said he receives about a \$10,000 pension, some \$6,400 now subject to tax, and will save about \$325 a year with the full exemption. But full colonels receive pensions of about \$45,000 a year, he said, and could receive a tax break of thousands of dollars a year.

Young agreed, saying people in higher tax brackets such as that could save 10 percent, or around \$4,500 a year, depending on other aspects of their taxes.

Frank Manfredi, a retired Montana Air National Guard employee who has followed the federal court case closely, said the state Legislature must act quickly in the aftermath of the Supreme Court ruling to eliminate Montana's unequal treatment of government pensions.

Manfredi said he has written state legislators and the last two governors to seek a change before, with no luck.

He said he doesn't consider himself a rabble-rouser and didn't mind too much paying his fairly small state tax bill, but simply felt uneasy that federal employees were not getting the same break as state and local employees.

said it apparently would not affect the state's taxation of private pensions.

State officials said earlier that more-favorable tax treatment as given to state pensions originally as pensions of different government employees are taxed, Nordtvedt an incentive to attract people to

work for the state, which was not paying high salaries.

Nordtvedt said the state seems to have three options, if its pension law in fact is struck down by the federal ruling:

- To give the pensions of current and retired federal employees the same exemption from state income taxes that state and local employees have.

- The opposite extreme, to instead start taxing the pensions of all current and retired local and state employees on the same basis the state now taxes federal employees.

- To allow the tax exemption for all government pensions in the past, but at some point in the future begin taxing them.

The revenue director declined to say which option he is most likely to recommend, but he noted there could be serious constitutional problems with the second option, since state employees could claim the state has broken its promise by withdrawing the tax-free aspect of the pension program.

Nordtvedt said that was the argument the Stephens administration used earlier this legislative session in strongly opposing a bill that would have subjected state pensions to taxation.

NAME Richard Furbush

ADDRESS 55 S. Ice St., Helena

HOME PHONE 449-4729 WORK PHONE NA

REPRESENTING _____

APPEARING ON WHICH PROPOSAL? SB 39

DO YOU: SUPPORT ☒ OPPOSE _____ AMEND _____

COMMENTS:

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

NAME HERMAN WITTMAN
ADDRESS 1159 SEAGULL RD., HELENA, MT 59601
HOME PHONE 458-6562 WORK PHONE —
REPRESENTING NARFE
APPEARING ON WHICH PROPOSAL? SB 39
DO YOU: SUPPORT ✓ OPPOSE — AMEND —

COMMENTS:

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

NAME Ed Sheehy

ADDRESS 1731 5th Ave

HOME PHONE 443-5782 WORK PHONE

REPRESENTING NARPE

APPEARING ON WHICH PROPOSAL?

DO YOU: SUPPORT ✓ OPPOSE AMEND

COMMENTS:

SB 39

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE January 24, 1995
 SENATE COMMITTEE ON Taxation
 BILLS BEING HEARD TODAY: SB 39 SB 107
Senator Mike Halligan

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Rick Davis CPA	Federnd Retirees	39	✓	
DICK HOY	SELF	39	✓	
HERMAN WITTMAN	NARFE	39	✓	
ELMER FAUTH	NARFE	39	✓	
Eldon Hodges	NARFE	39	✓	
JOSEPH ORYGOSKY	NARFE	39	L	
Gene B Hunter		39	✓	
TOM Harrison	MT. Soc. of CPAs	39	L	
Dennis Burr	Montax	39	✓	
Dennis Burr	montax	107	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY