

HOUSE BILL NO. 30

INTRODUCED BY M. WILLIAMS

BY REQUEST OF THE DEPARTMENT OF REVENUE
AND THE REVENUE OVERSIGHT COMMITTEE

IN THE HOUSE

January 7, 1985	Introduced and referred to Committee on Taxation.
January 16, 1985	Committee recommend bill do pass as amended. Report adopted. Bill printed and placed on members' desks.
January 17, 1985	Second reading, pass consideration.
January 18, 1985	On motion consideration passed until the 13th Legislative Day.
January 21, 1985	Consideration passed for the day.
January 22, 1985	Second reading, do pass as amended.
January 23, 1985	Correctly engrossed.
January 24, 1985	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 25, 1985	Introduced and referred to Committee on Taxation.
February 11, 1985	Committee recommend bill be concurring in. Report adopted.

February 14, 1985

Second reading, concurred in.

February 16, 1985

Third reading, concurred in.
Ayes, 42; Noes, 5.

Returned to House.

IN THE HOUSE

February 16, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 30
 2 INTRODUCED BY M. WILLIAMS
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE
 4 AND THE REVENUE OVERSIGHT COMMITTEE

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT EMPOWERING THE
 7 DEPARTMENT OF REVENUE TO COMPEL UNCOOPERATIVE INDIVIDUALS TO
 8 FILE CORRECT STATE TAX RETURNS AND REPORTS THROUGH THE
 9 FILING OF A PETITION FOR AN ORDER TO SHOW CAUSE; AND
 10 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Order to show cause -- action by
 14 department. (1) Whenever a taxpayer fails to file a return
 15 or report within 90 days after the due date or refuses to
 16 file the return or report within 60 days after notification
 17 or demand from the department, the department may file a
 18 petition in the district court for an order to show cause.

19 (2) When a petition is filed under the authority of
 20 subsection (1), the court shall issue an order directed to
 21 the taxpayer to file the return or report within 30 days of
 22 the order or to show cause why the return or report should
 23 not be filed.

24 (3) A copy of the petition and order may be served
 25 upon the taxpayer pursuant to the provisions of Rule

1 4D(1)(b), M.R.Civ.P. If the taxpayer fails to acknowledge
 2 service, the sheriff shall serve the taxpayer and shall
 3 collect the service fee from the taxpayer.

4 (4) The petition for an order to show cause may also
 5 include an allegation that a civil penalty is due under
 6 15-30-321. If such an allegation is made, evidence produced
 7 that the department's records show that the tax has not been
 8 paid, that the return or report has not been filed, or that
 9 information has not been supplied as required under this
 10 chapter is prima facie evidence that the tax has not been
 11 paid, the return or report has not been filed, or the proper
 12 information has not been supplied.

13 Section 2. Codification instruction. Section 1 is
 14 intended to be codified as an integral part of Title 15,
 15 chapter 30, and the provisions of Title 15, chapter 30,
 16 apply to section 1.

17 Section 3. Extension of authority. Any existing
 18 authority of the department of revenue to make rules on the
 19 subject of the provisions of this act is extended to the
 20 provisions of this act.

21 Section 4. Effective date. This act is effective on
 22 passage and approval.

-End-

INTRODUCED BILL



APPROVED BY COMMITTEE
ON TAXATION

1 HOUSE BILL NO. 30
2 INTRODUCED BY M. WILLIAMS
3 BY REQUEST OF THE DEPARTMENT OF REVENUE
4 AND THE REVENUE OVERSIGHT COMMITTEE

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT EMPOWERING THE
7 DEPARTMENT OF REVENUE TO COMPEL UNCOOPERATIVE INDIVIDUALS TO
8 FILE CORRECT STATE TAX RETURNS AND REPORTS THROUGH THE
9 FILING OF A PETITION FOR AN ORDER TO SHOW CAUSE; AND
10 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Order to show cause -- action by
14 department. (1) Whenever a taxpayer fails to file a return
15 or report within 90 days after the due date or AND refuses
16 to file the return or report within 60 days after
17 notification or demand from the department, the department
18 may file a petition in the district court for an order to
19 show cause.

20 (2) When a petition is filed under the authority of
21 subsection (1), the court shall issue an order directed to
22 the taxpayer to file the return or report within 30 days of
23 the order or to show cause why the return or report should
24 not be filed.

25 (3) A copy of the petition and order may be served

1 upon the taxpayer pursuant to the provisions of Rule
2 4D(1)(b), M.R.Civ.P. If the taxpayer fails to acknowledge
3 service, the sheriff shall serve the taxpayer and shall
4 collect the service fee from the taxpayer.

5 (4) The petition for an order to show cause may also
6 include an allegation that a civil penalty is due under
7 15-30-321. If such an allegation is made, evidence produced
8 that the department's records show that the tax has not been
9 paid, that the return or report has not been filed, or that
10 information has not been supplied as required under this
11 chapter is prima facie evidence that the tax has not been
12 paid, the return or report has not been filed, or the proper
13 information has not been supplied.

14 Section 2. Codification instruction. Section 1 is
15 intended to be codified as an integral part of Title 15,
16 chapter 30, and the provisions of Title 15, chapter 30,
17 apply to section 1.

18 Section 3. Extension of authority. Any existing
19 authority of the department of revenue to make rules on the
20 subject of the provisions of this act is extended to the
21 provisions of this act.

22 Section 4. Effective date. This act is effective on
23 passage and approval.

-End-



HOUSE BILL NO. 30

INTRODUCED BY M. WILLIAMS

BY REQUEST OF THE DEPARTMENT OF REVENUE

AND THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT EMPOWERING THE DEPARTMENT OF REVENUE TO COMPEL UNCOOPERATIVE INDIVIDUALS TO FILE CORRECT STATE TAX RETURNS AND REPORTS THROUGH THE FILING OF A PETITION FOR AN ORDER TO SHOW CAUSE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Order to show cause -- action by department. (1) Whenever a taxpayer fails to file a return or report within 90 days after the due date or AND refuses to file the return or report within 60 days after WRITTEN notification or demand from the department, the department may file a petition in the district court for an order to show cause.

(2) THE WRITTEN NOTIFICATION OR DEMAND SHALL RECITE THE FACTS AND CIRCUMSTANCES SHOWING THE FAILURE OF THE TAXPAYER TO FILE THE RETURN OR REPORT, MUST BE SENT BY CERTIFIED MAIL TO THE ADDRESS OF THE TAXPAYER AS SHOWN ON THE RECORDS OF THE DEPARTMENT AND TO ANY OTHER ADDRESS OF THE TAXPAYER KNOWN TO THE DEPARTMENT, AND SHALL INFORM THE

TAXPAYER THAT UPON FAILURE TO RECEIVE THE RETURN OR REPORT WITHIN 60 DAYS FROM THE DATE OF THE NOTIFICATION OR DEMAND THE DEPARTMENT WILL SEEK AN ORDER TO SHOW CAUSE IN DISTRICT COURT.

(3) A PETITION FILED UNDER THE AUTHORITY OF SUBSECTION (1) MUST BE VERIFIED AND SHALL SET FORTH IN DETAIL THE FACTS AND CIRCUMSTANCES SHOWING THE FAILURE OF THE TAXPAYER TO FILE THE RETURN OR REPORT AND THE RESPONSE, IF ANY, OF THE TAXPAYER TO THE WRITTEN NOTIFICATION AND DEMAND.

{2}{4} When a VERIFIED petition is filed under the authority of subsection (1), the court shall REVIEW THE PETITION TO DETERMINE IF THE DEPARTMENT HAS MADE A PRIMA FACIE SHOWING THAT AN ORDER TO SHOW CAUSE SHOULD BE ISSUED AND, IF SUCH A SHOWING HAS BEEN MADE, SHALL issue an order directed to the taxpayer to file the return or report within 30 days of the order or to show cause, AT A SPECIAL TIME AND PLACE, why the return or report should not be filed.

{3}{5} A copy of the petition and order--may A CERTIFIED COPY OF THE ORDER MUST be served upon the taxpayer. SERVICE MAY BE MADE pursuant to the provisions of Rule 4D(1)(b), M.R.Civ.P. If the taxpayer fails to acknowledge service, the sheriff shall serve A COPY OF THE PETITION AND A CERTIFIED COPY OF THE ORDER ON the taxpayer and-shall-collect-the-service-fee-from-the-taxpayer PURSUANT TO RULE 4D(2) OR (3), M.R.CIV.P.

1 ~~(4) The petition for an order to show cause may also~~
 2 ~~include an allegation that a civil penalty is due under~~
 3 ~~15-30-321. If such an allegation is made, evidence produced~~
 4 ~~that the department's records show that the tax has not been~~
 5 ~~paid, that the return or report has not been filed, or that~~
 6 ~~information has not been supplied as required under this~~
 7 ~~chapter is prima facie evidence that the tax has not been~~
 8 ~~paid, the return or report has not been filed, or the proper~~
 9 ~~information has not been supplied.~~

10 (6) AT THE HEARING ON THE ORDER TO SHOW CAUSE,
 11 EVIDENCE PRODUCED THAT THE DEPARTMENT'S RECORDS SHOW THAT
 12 THE RETURN OR THE REPORT HAS NOT BEEN FILED IS PRIMA FACIE
 13 EVIDENCE THAT THE RETURN OR REPORT HAS NOT BEEN FILED.

14 (7) UPON FINDING BY A PREPONDERANCE OF THE EVIDENCE
 15 THAT THE TAXPAYER HAS NOT FILED THE RETURN OR REPORT AS
 16 REQUIRED BY LAW, THE COURT MAY ISSUE A FURTHER ORDER
 17 COMPELLING THE FILING OF THE RETURN OR REPORT, AND THE
 18 TAXPAYER'S FAILURE TO COMPLY WITH THE ORDER MAY THEREAFTER
 19 BE PROCEEDED AGAINST AS A CONTEMPT.

20 Section 2. Codification instruction. Section 1 is
 21 intended to be codified as an integral part of Title 15,
 22 chapter 30, and the provisions of Title 15, chapter 30,
 23 apply to section 1.

24 Section 3. Extension of authority. Any existing
 25 authority of the department of revenue to make rules on the

1 subject of the provisions of this act is extended to the
 2 provisions of this act.

3 Section 4. Effective date. This act is effective on
 4 passage and approval.

-End-

1 HOUSE BILL NO. 30

2 INTRODUCED BY M. WILLIAMS

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4 AND THE REVENUE OVERSIGHT COMMITTEE

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT EMPOWERING THE
7 DEPARTMENT OF REVENUE TO COMPEL UNCOOPERATIVE INDIVIDUALS TO
8 FILE CORRECT STATE TAX RETURNS AND REPORTS THROUGH THE
9 FILING OF A PETITION FOR AN ORDER TO SHOW CAUSE; AND
10 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Order to show cause -- action by
14 department. (1) Whenever a taxpayer fails to file a return
15 or report within 90 days after the due date ~~or~~ AND refuses
16 to file the return or report within 60 days after WRITTEN
17 notification or demand from the department, the department
18 may file a petition in the district court for an order to
19 show cause.

20 (2) THE WRITTEN NOTIFICATION OR DEMAND SHALL RECITE
21 THE FACTS AND CIRCUMSTANCES SHOWING THE FAILURE OF THE
22 TAXPAYER TO FILE THE RETURN OR REPORT, MUST BE SENT BY
23 CERTIFIED MAIL TO THE ADDRESS OF THE TAXPAYER AS SHOWN ON
24 THE RECORDS OF THE DEPARTMENT AND TO ANY OTHER ADDRESS OF
25 THE TAXPAYER KNOWN TO THE DEPARTMENT, AND SHALL INFORM THE

1 TAXPAYER THAT UPON FAILURE TO RECEIVE THE RETURN OR REPORT
2 WITHIN 60 DAYS FROM THE DATE OF THE NOTIFICATION OR DEMAND
3 THE DEPARTMENT WILL SEEK AN ORDER TO SHOW CAUSE IN DISTRICT
4 COURT.

5 (3) A PETITION FILED UNDER THE AUTHORITY OF SUBSECTION
6 (1) MUST BE VERIFIED AND SHALL SET FORTH IN DETAIL THE FACTS
7 AND CIRCUMSTANCES SHOWING THE FAILURE OF THE TAXPAYER TO
8 FILE THE RETURN OR REPORT AND THE RESPONSE, IF ANY, OF THE
9 TAXPAYER TO THE WRITTEN NOTIFICATION AND DEMAND.

10 ~~(2)~~(4) When a VERIFIED petition is filed under the
11 authority of subsection (1), the court shall REVIEW THE
12 PETITION TO DETERMINE IF THE DEPARTMENT HAS MADE A PRIMA
13 FACIE SHOWING THAT AN ORDER TO SHOW CAUSE SHOULD BE ISSUED
14 AND, IF SUCH A SHOWING HAS BEEN MADE, SHALL issue an order
15 directed to the taxpayer to file the return or report within
16 30 days of the order or to show cause, AT A SPECIAL TIME AND
17 PLACE, why the return or report should not be filed.

18 ~~(3)~~(5) A copy of the petition and ~~order~~--may A
19 CERTIFIED COPY OF THE ORDER MUST be served upon the
20 taxpayer. SERVICE MAY BE MADE pursuant to the provisions of
21 Rule 4D(1)(b), M.R.Civ.P. If the taxpayer fails to
22 acknowledge service, the sheriff shall serve A COPY OF THE
23 PETITION AND A CERTIFIED COPY OF THE ORDER ON the taxpayer
24 ~~and shall collect the service fee from the taxpayer~~ PURSUANT
25 TO RULE 4D(2) OR (3), M.R.CIV.P.

1 ~~(4) The petition for an order to show cause may also~~
 2 ~~include an allegation that a civil penalty is due under~~
 3 ~~15-30-321. If such an allegation is made, evidence produced~~
 4 ~~that the department's records show that the tax has not been~~
 5 ~~paid, that the return or report has not been filed, or that~~
 6 ~~information has not been supplied as required under this~~
 7 ~~chapter is prima facie evidence that the tax has not been~~
 8 ~~paid, the return or report has not been filed, or the proper~~
 9 ~~information has not been supplied:~~

10 (6) AT THE HEARING ON THE ORDER TO SHOW CAUSE,
 11 EVIDENCE PRODUCED THAT THE DEPARTMENT'S RECORDS SHOW THAT
 12 THE RETURN OR THE REPORT HAS NOT BEEN FILED IS PRIMA FACIE
 13 EVIDENCE THAT THE RETURN OR REPORT HAS NOT BEEN FILED.

14 (7) UPON FINDING BY A PREPONDERANCE OF THE EVIDENCE
 15 THAT THE TAXPAYER HAS NOT FILED THE RETURN OR REPORT AS
 16 REQUIRED BY LAW, THE COURT MAY ISSUE A FURTHER ORDER
 17 COMPELLING THE FILING OF THE RETURN OR REPORT, AND THE
 18 TAXPAYER'S FAILURE TO COMPLY WITH THE ORDER MAY THEREAFTER
 19 BE PROCEEDED AGAINST AS A CONTEMPT.

20 Section 2. Codification instruction. Section 1 is
 21 intended to be codified as an integral part of Title 15,
 22 chapter 30, and the provisions of Title 15, chapter 30,
 23 apply to section 1.

24 Section 3. Extension of authority. Any existing
 25 authority of the department of revenue to make rules on the

1 subject of the provisions of this act is extended to the
 2 provisions of this act.

3 Section 4. Effective date. This act is effective on
 4 passage and approval.

-End-