

SENATE BILL NO. 449

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

MANDEVILLE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING COLLECTION OF TAXES; PROVIDING A 2 YEAR STATUTE OF LIMITATIONS ON COLLECTION OF TAXES ADMINISTERED BY VARIOUS AGENCIES; PROVIDING THE REVISED STATUTE OF LIMITATIONS DOES NOT APPLY TO PROPERTY TAXES; PROVIDING A WARRANT FOR DISTRAINT IS SUBJECT TO THE STATUTE OF LIMITATIONS ON COLLECTION; PROVIDING A DEFINITION; AMENDING SECTIONS 15-1-207, 15-1-701, 15-1-704, 15-1-708, 15-30-2629, 15-31-543, 15-35-114, 15-36-321, 15-37-106, 15-37-109, 15-37-116, 15-37-212, 15-38-112, 15-39-106, 15-50-304, 15-51-114, 15-53-150, 15-59-114, 15-64-106, 15-68-516, 15-70-110, 15-70-417, AND 15-72-113, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Statute of limitation on collection. (1) Except in the case of a fraudulent return or of neglect or refusal to make a return, every tax deficiency in this title must be collected within 2 years of the due date of the return or the date of filing the return or within 2 years of the date of the assessment, whichever is later.

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

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

"15-1-207. Writeoff of collection of tax, penalty, or interest -- rules. (1) ~~The~~ Subject to [section 1], the department of revenue may write off the collection of any tax, penalty, or interest due to the state under this title when the department determines that it is not cost-effective for the department to attempt to collect the tax,

1 penalty, or interest. The department shall establish procedures to determine the cost-effectiveness of collecting
2 the tax, penalty, or interest. If the department writes off the collection of any tax, penalty, or interest, the
3 department shall place in the taxpayer's file a written justification for the writeoff that includes a determination
4 that attempted collection is not cost-effective.

5 (2) The department shall prescribe rules to establish the procedures to carry out the purposes of
6 this section."

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

9 **"15-1-701. Warrant for distraint.** (1) A warrant for distraint is an order, under the official seal of the
10 department or of the department of transportation, directed to a sheriff of a county of Montana or to an agent
11 authorized by law to collect a tax. The order commands the recipient to levy upon and sell the real and personal
12 property of a delinquent taxpayer.

13 (2) Upon filing the warrant as provided in 15-1-704, there is a lien against all real and personal
14 property of the delinquent taxpayer located in the county where the warrant is filed. The resulting lien is treated
15 in the same manner as a properly docketed judgment lien, the department is a judgment lien creditor, and the
16 department may collect delinquent taxes and enforce the tax lien in the same manner as a judgment is
17 enforced, except that the department may enforce the judgment lien at any time within ~~40 years~~ of its creation
18 or effective date, whichever is later, until the delinquent taxes are no longer collectible pursuant to [section 1].

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

23 (4) The accelerated priority date provided for in subsection (3) is not valid against purchasers,
24 holders of security interests, judgment lien creditors, and those lienholders identified in Title 71, chapter 3, parts
25 3 through 15, whose interest is recorded prior to the filing of the warrant for distraint."

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

28 **"15-1-704. Filing with district court.** (1) After issuing a warrant, the department may file the warrant

1 with the clerk of a district court. The clerk shall file the warrant in the judgment docket, with the name of the
2 taxpayer listed as the judgment debtor. A warrant is subject to the limitations on collection in [section 1].

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

5 (3) A judgment lien filed pursuant to this section may be renewed for another 10-year period, upon
6 motion, or by judgment for that purpose founded upon supplemental pleadings."

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

9 **"15-1-708. Release of lien.** (1) Upon payment in full of the unpaid tax plus accumulated penalty, if
10 any, and accumulated interest, or the expiration of the statute of limitations provided for in [section 1], the
11 department shall release the lien acquired by filing the warrant for distraint.

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

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

19 (b) Reasonable fees or costs of collection incurred by the department may be added to the amount
20 of the debt, including added fees or costs. The debtor is liable for repayment of the amount of the debt plus fees
21 or costs added pursuant to this subsection. All money collected must be applied to the debt, except that all fees
22 or costs collected must be retained by the department. If less than the full amount of the debt is collected, the
23 department shall retain only a proportionate share of the collection fees or costs."

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25 **Section 6.** Section 15-30-2629, MCA, is amended to read:

26 **"15-30-2629. Authority to collect tax -- offset -- hearing.** (1) ~~The~~ Subject to [section 1], the
27 department shall collect taxes that are delinquent as determined under this chapter.

28 (2) To collect delinquent taxes after the time for appeal has expired, the department may direct the

1 offset of tax refunds or other funds due the taxpayer from the state, except wages subject to the provisions of
2 25-13-614 and retirement benefits.

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

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

7 (5) The department shall provide the taxpayer with notice of the uniform dispute review available
8 under 15-1-211 for disputing the offset of funds for collection of delinquent taxes. A request for hearing must be
9 made within 30 days of the date of the notice."
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11 **Section 7.** Section 15-31-543, MCA, is amended to read:

12 **"15-31-543. Forfeiture of right to engage in business -- penalties.** (1) A corporation that purposely
13 fails to file a return at the time specified in 15-31-502 or that purposely files a false or fraudulent return may be
14 adjudged by a court of competent jurisdiction to forfeit the right to continue to engage in business in the state as
15 a corporation until the corporate income tax, together with all penalties, interest, and costs, is paid. The
16 forfeiture may be enforced by proper proceedings in court.

17 (2) Each officer or employee of any corporation or other person who, without fraudulent intent, fails
18 to file, sign, or verify any return or to supply any information within the time required by the provisions of this
19 chapter is liable for the penalty imposed by 15-1-216. ~~The~~ Subject to [section 1], the department shall assess
20 and collect any penalty in the same manner as is provided in this chapter with regard to delinquent taxes."
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22 **Section 8.** Section 15-35-114, MCA, is amended to read:

23 **"15-35-114. Statute of limitations.** (1) Except as otherwise provided in [section 1] and this section,
24 no deficiency may be assessed or collected with respect to the year for which a return is filed unless the notice
25 of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the
26 purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last
27 day. If the taxpayer, before the expiration of the period prescribed for assessment of the tax, consents in writing
28 to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period

1 agreed upon.

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

9 (3) If a return is required to be filed and the taxpayer fails to file the return, the tax may be
10 assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the
11 taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery
12 of the fraud by the department."
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14 **Section 9.** Section 15-36-321, MCA, is amended to read:

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

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

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

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

7 **"15-37-106. Procedure in case of failure to file statements.** If a person fails to file the required
 8 statement of gross yield for a reporting period on or before the date the tax becomes delinquent under 15-37-
 9 108, the department shall, immediately after the time has expired, determine as nearly as may be possible from
 10 any returns or reports filed with any state or county officer or board under any law of this state and from any
 11 other information that the department may be able to obtain the total gross value of product of the person from
 12 the business during the reporting period for which the license tax is to be paid. The department shall file a
 13 statement showing the amount of the gross value of product and shall determine and assess the amount of the
 14 license taxes due from the person. The department shall, as soon as possible, give notice to the person in the
 15 same manner as though the statement had been filed within time. ~~The~~ Subject to [section 1], the department
 16 shall collect the license tax, along with penalty and interest as provided in 15-1-216."

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

19 **"15-37-109. False or erroneous statements -- investigation penalty and interest.** (1) When the
 20 department determines that any statement and return is false or erroneous, it may require a person or the
 21 officers or the employees of the person, to testify concerning the statement and return and may examine all
 22 books, records, papers, and documents of the person, pertaining to the business, upon giving 5 days' written
 23 notice to the person or officers or employees having custody of the books, records, papers, and documents. A
 24 person who fails to appear or who refuses to be sworn, to testify, or to answer any material question
 25 propounded by the department or who refuses to permit the department to examine the books, records, papers,
 26 or documents pertaining to the business is considered guilty of a misdemeanor and upon conviction shall be
 27 punished by a fine of not more than \$1,000 or by imprisonment in the county jail for not more than 6 months or
 28 by both fine and imprisonment. If the department, after hearing the evidence and after the examination of the

1 books, papers, documents, and records of the person, finds that the statement and return are erroneous or
2 false in any material matter, the department shall correct the return to show the true gross value of product and
3 shall reassess the amount of the license tax due from the person and may add to the tax a penalty of not more
4 than 50% and shall immediately mail to the person a written notice of the corrections made to the statement
5 and return and the amount of the license tax and penalty due and payable.

6 (2) ~~The Subject to [section 1],~~ the department shall collect the license tax with penalty added, and
7 if the tax has become delinquent, it shall also collect interest as provided in 15-1-216. In order to verify the
8 statement and return, the department may require any person engaged in the business of smelting, milling,
9 reduction, or treatment of ores extracted or produced from any mine or mining property in the state to appear
10 before the department and testify concerning the gross mineral content of any ore or at the request of the
11 department to furnish sworn statements showing the gross yield of the ores, mineral products, or deposits in
12 constituents of commercial value including the number of ounces of gold or silver, pounds of copper, lead, or
13 zinc, or other commercially valuable constituents of the ores or mineral products or deposits, measured by
14 standard units of measurement, during the period covered by the statement, without any deductions for
15 smelting, milling, reduction, or treatment of the ores or mineral product.

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

20 (4) If a person required by this part to file a return or to verify, under oath, any statement on the
21 return makes a false statement in any material respect or verifies, under oath, any false statement or fails to file
22 any statement required by the department or refuses to appear before the department to testify concerning the
23 gross mineral content of any ore or refuses to allow the department at any time or place to inspect or examine
24 the books, records, papers, and documents of the person engaged in the business of smelting, milling,
25 reduction, or treatment of ores extracted or produced by any mine or mining property in the state, the person is
26 considered guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000 or by
27 imprisonment in the county jail for not more than 6 months or by both a fine and imprisonment."
28

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

2 **"15-37-116. Statute of limitations.** (1) Except as otherwise provided in [section 1] and this section,
3 no deficiency may be assessed or collected with respect to the year for which a return is filed unless the notice
4 of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the
5 purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last
6 day. If the taxpayer, before the expiration of the period prescribed for assessment of the tax, consents in writing
7 to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period
8 agreed upon.

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

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

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

22 **"15-37-212. Statute of limitations.** (1) Except as otherwise provided in [section 1] and this section,
23 no deficiency may be assessed or collected with respect to the year for which a return is filed unless the notice
24 of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the
25 purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last
26 day. If the taxpayer, before the expiration of the period prescribed for assessment of the tax, consents in writing
27 to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period
28 agreed upon.

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

8 (3) If a return is required to be filed and the taxpayer fails to file the return, the tax may be
9 assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the
10 taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery
11 of the fraud by the department."
12

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

14 "**15-38-112. Statute of limitations.** (1) Except as otherwise provided in [section 1] and this section,
15 no deficiency may be assessed or collected with respect to the year for which a return is filed unless the notice
16 of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the
17 purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last
18 day. If the taxpayer, before the expiration of the period prescribed for assessment of the tax, consents in writing
19 to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period
20 agreed upon.

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

28 (3) If a return is required to be filed and the taxpayer fails to file the return, the tax may be

1 assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the
2 taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery
3 of the fraud by the department."
4

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

6 **"15-39-106. Authority to collect delinquent taxes.** (1) (a) ~~The~~ Subject to [section 1], the department
7 shall collect taxes that are delinquent as determined under this part.

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

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

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

15 (4) The department may file a claim for state funds on behalf of the taxpayer if a claim is required
16 before funds are available for offset."
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18 **Section 16.** Section 15-50-304, MCA, is amended to read:

19 **"15-50-304. Statute of limitations.** (1) Except as otherwise provided in [section 1] and this section,
20 no deficiency may be assessed or collected with respect to the year for which a public contractor's gross
21 receipts tax return is filed unless the notice of additional tax proposed to be assessed is mailed within 5 years
22 from the date the return was filed. For the purposes of this section, a return filed before the last day prescribed
23 for filing is considered filed on the last day. If the taxpayer, before the expiration of the 5-year period, consents
24 in writing to an assessment after that time, the tax may be assessed at any time prior to the expiration of the
25 period agreed upon.

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

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

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

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

11 **"15-51-114. Statute of limitations.** (1) Except as otherwise provided in [section 1] and this section,
 12 no deficiency may be assessed or collected with respect to the year for which a return is filed unless the notice
 13 of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the
 14 purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last
 15 day. If the taxpayer, before the expiration of the period prescribed for assessment of the tax, consents in writing
 16 to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period
 17 agreed upon.

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

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

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

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

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

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

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

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

1 agreed upon.

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

9 (3) If a return is required to be filed and the taxpayer fails to file the return, the tax may be
10 assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the
11 taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery
12 of the fraud by the department."
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14 **Section 20.** Section 15-64-106, MCA, is amended to read:

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

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

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

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

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

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

28 **"15-68-516. Authority to collect delinquent taxes.** (1) (a) ~~The~~ Subject to [section 1], the department

1 shall collect taxes that are delinquent as determined under this chapter.

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

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

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

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

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

13 **"15-70-110. Authority to collect delinquent motor fuel taxes -- offset -- hearing.** (1) ~~The Subject~~
14 to [section 1], the department of transportation shall collect motor fuel taxes that are delinquent as determined
15 under this chapter.

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

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

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

23 (5) The department shall provide the taxpayer with notice of the right to request a hearing under
24 the contested case procedures of Title 2, chapter 4, on the matter of the offset action or the department's intent
25 to file a claim on behalf of the taxpayer. A request for hearing must be made within 30 days of the date of the
26 notice. If a hearing is requested, it must be held within 20 days of the request."
27

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

1 **"15-70-417. Penalties for delinquency.** (1) Except for tax due under the agreement adopted under
 2 15-70-121, any fuel tax not paid within the time provided in 15-70-113(3) and 15-70-410 is delinquent. A penalty
 3 of 10% must be added to the tax, and the tax bears interest at the rate of 1% per month, prorated daily, from
 4 the date of delinquency until paid.

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

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

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

11 (4) If a distributor or other person required to pay the tax willfully fails, neglects, or refuses to file
 12 any statement required by this part or willfully fails to pay the tax within the time provided, the department may
 13 revoke any license issued under this part.

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

18

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

20 **"15-72-113. Authority to collect delinquent taxes.** (1) (a) ~~The~~ Subject to [section 1], the department
 21 shall collect taxes that are delinquent as determined under this part.

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

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

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

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

3

4 NEW SECTION. Section 25. Codification instruction. [Section 1] is intended to be codified as an
5 integral part of Title 15, chapter 1, part 1, and the provisions of Title 15, chapter 1, part 1, apply to [section 1].

6

7 NEW SECTION. Section 26. Effective date. [This act] is effective January 1, 2024.

8

9 NEW SECTION. Section 27. Applicability. [This act] applies to tax years beginning after December
10 31, 2023.

11

- END -