MONTANA
DEPARTMENT OF
REVENUE

GOVERNOR GREG GIANFORTE
DIRECTOR BRENDAN BEATTY

MEMORANDUM

TO: Revenue Interim Committee

FROM: Dave Stewart, Chief Legal Counsel DAS

DATE: July 10, 2026

SUBJECT: Department of Revenue Major Case Update

MONTANA SUPREME COURT

Boardwalk Properties, Inc./Michael Delaney and Ileana Indreland v. State of Montana and MDOR: In June 2021, Boardwalk Properties sued the department in the Eighteenth Judicial District Court, Gallatin County, challenging the 2021 statutory amendments to § 16-4-213, MCA, governing resort area all-beverages licenses, specifically that accommodation units may not be located within the boundaries of a quota area in order to qualify toward the required total for the potential issuance of additional resort retail all-beverages licenses (House Bill 705 (2021)). The lawsuit asserted that the amended statute violates both the state and federal constitutions (retrospective legislation, equal protection, due process, and takings). Discovery closed in March 2024, both parties filed cross-motions for summary judgment, and oral argument was held on August 21, 2024.

On June 18, 2025, the Court granted summary judgment in favor of the department and the department filed its proposed entry of final judgment for the Court's consideration. On July 24, 2025, Boardwalk Properties appealed to the Montana Supreme Court. The parties engaged in the Supreme Court's mandatory mediation process with no resolution attained.

Boardwalk Properties filed its opening brief on January 14, 2026. The Department filed its response brief on April 20, 2026. Boardwalk Properties' reply brief is due June 3, 2026.

National Order of Cowboy Rangers (NOCR) v. MDOR: The department denied NOCR's application for an all-alcoholic beverage license as a non-profit, nationally chartered fraternal organization following a protest hearing, where the department's Office of Dispute Resolution (ODR) determined NORC failed to meet eligibility or suitability criteria as a nationally chartered fraternal organization that existed for five or more years prior to January 1, 1949, under § 16-4-201(8)(b), MCA. Pursuant to § 2-4-702(2)(a), MCA, the deadline for NOCR to file a petition for judicial review ran on November 20, 2024. NOCR did not petition until January 13, 2025, and asserted equity principles and good cause for its delayed filing.

On May 7, 2025, the Thirteenth Judicial District Court, Yellowstone County, granted the department's motion to dismiss NOCR's petition for judicial review as untimely. On May 21, 2025, NOCR appealed to the Montana Supreme Court and its opening brief was filed on July 21, 2025. The department's response brief was filed on September 19, 2025, and NOCR's reply brief was filed on October 2, 2025. The matter is fully briefed, and the parties await the court's decision.

STATE DISTRICT COURT

Hertz et. al. v. State of Montana, MDOR, and Brendan Beatty, in his official capacity as Director of DOR. On January 21, 2026, state Senators Greg Hertz and Tom McGillvray, and former state Senator Keith Regier, as Plaintiffs, filed suit in the Eighteenth Judicial District Court in Gallatin County alleging that Senate Bill 542 (2025) (SB 542) violates Article V, Sections 11(1) and 11(4) of the Montana Constitution. The suit requests the Court to issue declaratory judgment(s) on various legal theories that SB 542 is unconstitutional and void. Plaintiffs also filed a Motion for Summary Judgment with the Court on January 30, 2026. The Department was served with the Complaint and the Motion Summary Judgment on February 3, 2026 . The Department filed its answer and a response to the motion, along with a Coss-Motion for Summary Judgment. These motions are fully briefed and are now awaiting the court's decision.

Coyle, et. al. v. MDOR: On February 2, 2026, Lance and Lorissa Coyle and Homestead YC, LLC, a Montana limited liability company, as Plaintiffs, filed suit in Madison County against the Department alleging that the Department has violated Article VIII, Sections 3 and 4 of the Montana Constitution and various state statutes by failing to secure and maintain tax equalization of property by utilizing appraisals outside of the 12-month valuation period. The suit requests the Court: issue an injunction and declaratory judgment(s) on various legal theories; accept Plaintiffs' constitutional challenge to the statutory requirement to pay taxes under protest; certify the matter as a class action suit; and grant supplemental relief to Plaintiffs, including attorneys' fees and costs under the private attorney general doctrine. The Department filed a motion to dismiss on March 3, 2026. The motion has been fully briefed and is now awaiting the court's decision.

Order of Chosen Friends v. MDOR; Order of Chosen Friends, Lodge 3 v. MDOR; Order of Chosen Friends, Lodge 3, d/b/a Arete Group, LLC v. MDOR. Similar to the NOCR case (above), the department's ODR denied the Plaintiffs/Petitioners' applications following a protest hearing, determining that they failed to meet eligibility or suitability criteria as a nationally chartered fraternal organization that existed for five or more years prior to January 1, 1949, under § 16-4-201(8)(b), MCA. Plaintiffs/Petitioners petitioned the Thirteenth Judicial District Court, Yellowstone County, for judicial review of the department's denial of their alcoholic beverage license applications as a non-profit, nationally chartered fraternal organization. Plaintiffs/Petitioners subsequently moved to dismiss the department and seek to litigate against the protesters. The motion is fully briefed, and the parties await the court's decision.

Thomas Powers and Cindra Lord-Powers and Ryan Swenson and Elizabeth Swenson, et al. v. State of Montana and MDOR: On October 21, 2024, Mr. and Mrs. Powers and Mr. and Mrs. Swenson, as Plaintiffs, filed suit in Butte-Silver Bow County against the State of Montana and the department alleging that the "state" and the department have failed to equalize and adjust all taxable property in the state as required by Article VIII, Section 3 of the Montana Constitution and § 15-9-101, MCA. The suit requests the Court (1) certify the matter as a class action suit; (2) issue declaratory judgment(s) under the Uniform Declaratory Judgment Act (UDJA) on various legal theories; and (3) grant supplemental relief to Plaintiffs, including attorneys' fees and costs. The department filed a motion to dismiss on the basis that the suit was filed under the incorrect declaratory judgment authority. On October 2, 2025, the Court denied the department's motion to dismiss. The department filed its answer on October 16, 2025.

On October 21, 2025, Plaintiffs filed a motion and brief in support of class certification and appointment of class counsel asking the Court to certify "all Montana residential taxpayers whose 2023-2024 property taxes have increased...[higher than if] the 'tax neutral rate'" was used, as the class. The department's response brief to the class certification motion was filed on November 21, 2025. Plaintiffs filed their reply brief on December 4, 2025. The class certification is now fully briefed and is awaiting a decision.

Discovery is ongoing.

MONTANA TAX APPEAL BOARD

Billings Generation, Inc., Orndorff, Roberts, and Smith: The taxpayers appealed the department's assessments for tax year 2020 to MTAB on April 4, 2024. Taxpayers then filed a Petition for Interlocutory Adjudication in the First Judicial District Court. Following briefing, the Court granted the department's Motion to Dismiss, concluding the taxpayers had failed to raise a justiciable issue. Taxpayers' Motion for Summary Judgment filed with MTAB was denied. The MTAB hearing was held December 4-5, 2025; proposed findings of fact and conclusions of law were filed on February 5, 2026. The parties are now waiting for a decision from the Board.

BANKRUPTCY COURT

None to Report

SETTLEMENTS

Charter Communications, Inc. (Charter): Charter appealed the Department's assessment for 2025 of $271,527,952 apportioned among the counties in which the property is located. The parties exchanged evidence regarding the value of the entity, its customer relationships and Montana allocation factor. Upon review and consideration of the additional information from Charter, the Department adjusted the deduction for intangible personal property resulting in a market value for the 2025-2026 property tax cycle of $253,764,904. The Department notified the appropriate county officials of the revised assessment and Charter moved to dismiss its appeal before the Department.

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