

Overview of Montana Corporation License Tax

Senate Taxation Committee
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1

Total Corporate Income – Federal Income Tax

	Gross Receipts or Sales
Less:	Cost of Goods Sold
Equals:	Gross Profit
Plus:	Dividends, Interest
	Gross Rent
	Gross Royalties
	Capital Gains
	Supplemental Gains
	Other Income
Equals:	Total Income

2

Federal Taxable Income

Total Income

Less: **Compensation of Officers**
 Wages and Salaries
 Pension, profit sharing plans, etc.
 Employee benefit program costs
 Repairs, maintenance
 Bad debts
 Rents and interest paid
 Taxes and licenses
 Charitable contributions
 Depreciation, depletion
 Advertising and other deductions

Equals: **Federal Taxable Income**

3

Montana Corporation License Tax – Starting Point

**The starting point for Montana's
Corporation License Tax is:**

Federal Taxable Income (FTI)

**Federal law controls all of the income
and deduction items discussed
previously**

4

Montana Additions to FTI

- **Montana corporation license tax included in FTI**
- **Other state, local, foreign and franchise taxes (based on income)**
- **Federal tax exempt (municipal) interest**
- **Contributions used to compute Montana's charitable endowment credit**
- **Other additions (e.g. extraterritorial income exclusion, capital loss carryover)**

5

MT Subtractions from FTI

- **IRC "Section 243" dividends received deduction**
- **Nonbusiness income**
- **Montana recycling deduction**
- **Other reductions (e.g. current year capital losses must be deducted in year incurred)**

6

Adjusted Federal Taxable Income

Federal Taxable Income

Plus: Montana Additions

Less: Montana Subtractions

**Equals: Adjusted Federal Taxable
Income**

7

Apportionment – General Approach

Corporations operating in more than one state must have their income apportioned to each of the states in which they operate.

Montana apportions income of multi-state corporations using the traditional Uniform Division of Income for Tax Purposes Act (UDITPA) equally-weighted, 3-factor apportionment formula.

8

Apportionment – General Approach

The UDITPA three factors used to apportion income under this approach are:

- **PROPERTY (Original Cost)**
- **PAYROLL**
- **SALES**

9

Apportionment Factor - Example

Example Calculation of Apportionment Factor for Multistate Corporation

Factor	Total	Montana	MT Factor
Property Factor	\$2,500,000,000	\$223,000,000	0.0892
Payroll Factor	\$327,000,000	\$16,000,000	0.0489
Sales Factor	\$1,298,000,000	\$98,000,000	0.0755
Sum of Montana Factors:			0.2136

Apportionment Factor (sum of MT factors divided by 3):

0.0712

10

Montana Taxable Income (before Net Operating Losses)

Adjusted Fed Taxable Income

Times: Apportionment Factor

Equals: Apportioned MT Income

**Plus: Income Allocated Directly
to Montana**

**Equals: Montana Taxable Income
(before net operating losses)¹¹**

Net Operating Losses

- **In simple terms, a net operating loss (NOL) is the excess of deductions over gross income in any tax year**
- **Corporations may reduce taxable income in previous or subsequent tax years by carrying forward or carrying backwards net operating losses**
- **Net operating losses may be carried *back* for 3 tax periods**
- **Net operating losses may be carried *forward* for 7 tax periods**

12

Montana Taxable Income (After NOLs) and Tax Liability (Before and After Credits)

	Montana Taxable Income (Before NOLs)
Less:	Net Operating Loss Carryover
Equals:	Montana Taxable Income (After NOLs)
Times:	6.75% (7% if "Water's Edge" Corporation)
Equals:	Tax Liability Before Credits
Less:	Tax Credits
Equals:	Tax Liability After Credits

13

Tax (Refund) Due at Time of Filing

**Corporations may owe tax or be due a refund
at the time of filing:**

	Tax Liability After Credits
Less:	Prior Year Overpayments
	Tentative Payments
	Quarterly Estimated Tax Payments
Equals:	Net Tax (Refund) due

14

“Unitary” v. “Separate” Reporting

- **States may require corporations to file on either a unitary (combined) or separate reporting basis**
- **Montana is a worldwide, combined unitary state and unitary corporations must apportion income as provided for in 15-31-305, MCA**

15

Unitary (Combined) Reporting

Business is unitary when:

- 1) **Operation within the state is dependent upon or contributory to operations outside the state, or**
- 2) **Units of the business within and without the state are closely allied or incapable of separate maintenance**

16

Unitary (Combined) Reporting

Unitary requirements (“three-unities” test):

- 1) Unity of ownership (affiliate owned greater than 50%, control established)**
- 2) Unity of operation (economies of scale - centralized staff functions – purchasing, advertising, human resources, etc.); and**
- 3) Unity of use (centralized executive force making decisions regarding strategy and operations, intercompany transfer of products, know-how and expertise)**

17

Separate Company Reporting

- Each member of a commonly controlled group computes income and files a return as if it were a separate economic entity**
- Provides opportunities to create legal structure and intercompany transactions to shift income from affiliates in high-tax states to affiliates in low-tax states**

18

“Water’s Edge” Corporations

- **Available only to multinational corporations**
- **Allows exclusion of corporations operating almost exclusively outside US (80% rule)**
- **Three-year renewable election**
- **Tax Rate of 7% (rather than 6.75%)**

19

Audit Program (RARs)

- **15 Corporation Tax Auditors**
- **Desk Audits (RARs, NOL carry forwards, state adjustments, etc.)**
- **Field Audits (Review filing methods, large nonbusiness deductions, apportionment factors, etc.)**

20