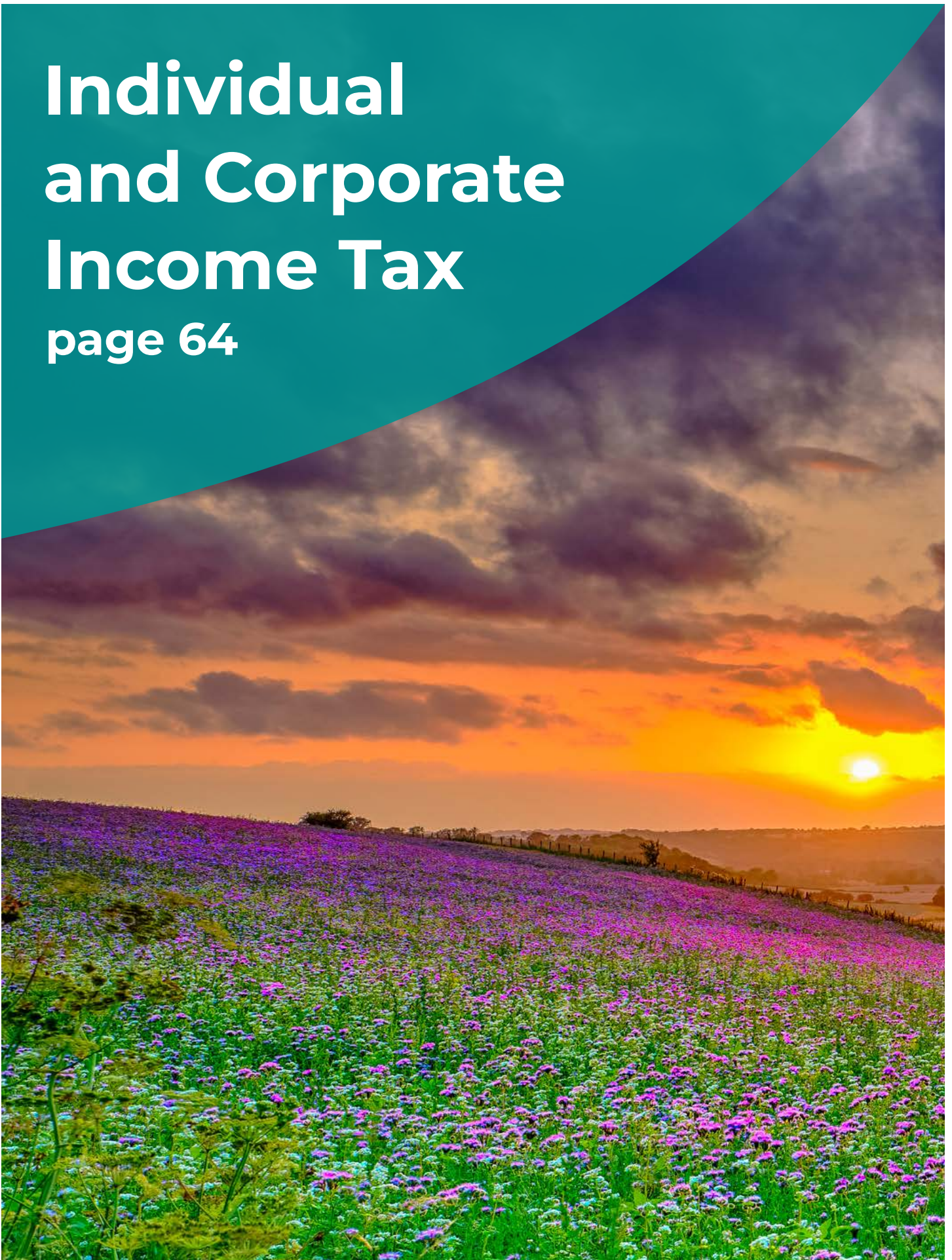


Individual and Corporate Income Tax

page 64



Contents

66	Overview
69	Recent Legislative Changes to Individual Income Tax
72	Calculation of Individual Income Tax
87	Taxation of Business Income
90	Business Structure, Tax Administration, and Compliance
92	Pass-Through Entities
95	Ownership, Income, Deductions, and Credits Reported on Montana Pass-Through Returns
100	Optional Pass-Through Entity Tax (PTET) and Credit
101	Pass-Through Entity Tax Credits
102	Pass-through Distributions by Industry
108	Estates and Trusts
113	Corporate Income Tax Overview
122	Filing Requirements and Estimated Payments
124	Comparison of Corporate Tax Rate with Other States
126	Select History of Montana's Corporate Income Tax

Overview

The individual income tax is the largest source of state tax revenue. All income tax revenue is allocated to the state general fund, accounting for 64.4 percent of general fund revenue for Fiscal Year 2024. Income tax revenue is collected primarily through withholding from wages and other periodic payments, quarterly estimated tax payments, and payments made when a return is filed. The following tables show income tax revenue and return filings.

Table 3.1 Individual Income Tax Collections

Fiscal Year	Total Revenue
2014	\$1,063,284,408
2015	\$1,175,744,881
2016	\$1,184,827,762
2017	\$1,168,224,644
2018	\$1,297,776,586
2019	\$1,429,010,432
2020	\$1,435,239,997
2021	\$1,765,418,237
2022	\$2,393,807,454
2023	\$2,254,305,063
2024	\$2,243,946,324

Figure 3.1

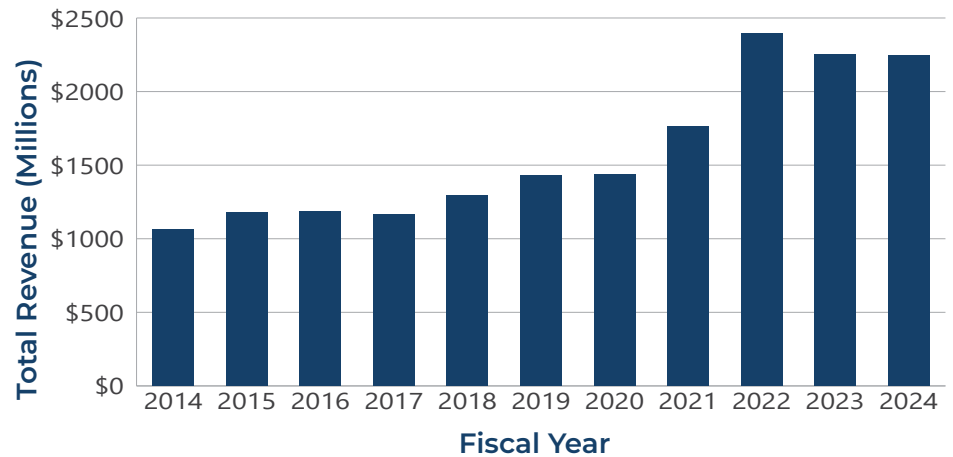


Table 3.2 Income Tax Returns and Refunds

Calendar Year	Returns	Returns with Refund	Percent with Refund	Average Refund
2006	572,256	311,789	66%	\$464
2007	591,874	345,972	71%	\$506
2008	601,078	345,172	70%	\$598
2009	587,425	337,714	70%	\$545
2010	596,021	335,904	68%	\$532
2011	604,758	341,057	68%	\$538
2012	611,360	343,678	68%	\$523
2013	626,654	348,137	67%	\$532
2014	635,045	350,760	67%	\$536
2015	647,329	357,902	67%	\$546
2016	647,855	364,936	68%	\$578
2017	657,720	366,734	67%	\$591
2018	660,060	404,727	74%	\$504
2019	681,306	424,853	75%	\$535
2020	682,782	423,981	74%	\$566
2021	699,955	418,338	72%	\$612
2022	713,694	444,284	74%	\$667
2023	715,357	446,710	75%	\$856

The Legislature enacted the state income tax in 1933 and has made major changes infrequently. The latest change was enacted in 2021 (effective Tax Year 2024). This change moved Montana from basing its income tax on Federal Adjusted Gross Income to Federal Taxable Income, eliminated Montana specific deductions and exemptions, reduced the number of tax rates, lowered the top tax rate, created separate rate tables based on filing status, and began requiring taxpayers to use the same filing status on both their federal and Montana income tax return.

Before Tax Year 2024

Most differences that existed between the federal and Montana income tax structure before Tax Year 2024 reflected the legislative decision to allow married couples to file separate returns in Montana when they filed jointly for federal tax purposes and to use Montana-specific additions, subtractions, and deductions in determining Montana taxable income.

Federal law provides different rate tables for married couples who file joint and separate returns. Couples generally have lower federal tax if they file a joint return. Most states either require couples to make the same choice between joint and separate returns as they did for their federal taxes, have different rate tables for joint and separate returns, or have a single tax rate so that the choice does not matter. Montana was one of a handful of states that did not have at least one of these provisions. Because of this, most two-income married couples could minimize their combined tax liability if they filed a joint federal return and separate Montana returns. This occurred because when they filed separately, the spouses could apply the lower brackets of the tax table twice on their combined income, instead of only once when they filed jointly.

Montana was one of the few states that allowed an itemized deduction for federal income taxes. Montana capped the deduction to \$5,000 for single filers and \$10,000 for joint returns. Most states avoid a federal income tax deduction because not having it allows lower rates. To raise the same revenue, a state that allowed the deduction must have higher rates to compensate for the smaller tax base.

Starting Tax Year 2024

The 2021 Legislature made several significant changes to Montana's personal income tax in Senate Bill 399. The 2023 Legislature made several additional changes to Montana's personal income tax in House Bill 221 and Senate Bill 121.

Starting Tax Year 2022, sixteen of the state's personal income tax credits were eliminated, including the College Contribution credit, the Energy Conservation credit, the Alternative Energy Systems credit, the Adoption credit, and the Geothermal Systems credit.

Starting in Tax Year 2024, the state's personal income tax moved from being based on Federal adjusted gross income to Federal taxable income. This change eliminated the state's standard and itemized deductions and personal exemption. It also eliminated a large number of the additions and subtractions that were used to modify Federal adjusted gross income when determining Montana adjusted gross income.

Taxpayers are now required to use the same filing status, a joint return or a separate return, as chosen for their federal tax return. Separate rate tables for joint and non-joint returns were also created.

A new income exemption of \$5,500 was also created for taxpayers who are at least 65 years old.

While Montana's new tax structure is based on Federal taxable income, it does not include the federal Qualified Business Income deduction, which taxpayers must exclude when determining their Montana taxable income.

The number of tax brackets that apply to Montana taxable income was also reduced from the previous seven brackets to two brackets, which vary depending upon the filing status of the taxpayer. The new rates for each bracket are 4.7 percent and 5.9 percent. In addition, the state's 2 percent capital gains income tax credit was

replaced with two separate net-long term capital gains tax rates of 3 percent and 4.1 percent.

Before 1981, the legislature occasionally adjusted rate tables and other tax parameters for the effects of inflation. The 1981 Legislature assigned this task to the department. Each year, the department adjusts each applicable income tax factor for inflation. This prevents individual tax liabilities from increasing simply due to inflation. Without this inflation adjustment, a person whose income just kept up with inflation would pay higher effective tax rates over time as inflation moved them to higher rate brackets and reduced the real value of their income exemptions.

Recent Legislative Changes to Individual Income Tax

The following bills passed by the 2021 Legislature affected the individual income tax:

- HB 53** Adopted the Multistate Tax Commission model statute for standardizing reporting adjustments to federal taxable income and partnership audit adjustments.
- HB 129** Linked Montana’s 529 education savings plans to federal law, which expands the types of spending that qualifies for account funds.
- HB 191** Increased the Elderly Homeowner / Renter credit income exclusion amount from \$6,300 to \$12,600. The maximum credit amount was also increased from \$1,000 to \$1,150.
- HB 252** Created a tax credit for employers, equal to 50% of their training expenses associated with technical, vocational and trade professions.
- HB 279** Increased the maximum per-person credit amount from the Student Scholarship Organization and Educational Improvement Program credits from \$150 to \$200,000. The maximum total credits that can be claimed were reduced to \$1,000,000 for Tax Year 2022 and \$2,000,000 in Tax Year 2023.
- HB 340** Increased the annual film tax credit cap from \$10 million to \$12 million.
- HB 629** Created a job growth tax credit for businesses that hire at least 10 new qualifying employees from their base employment level in 2021 and reach a total of 15 new qualified employees in a following tax period. The number of required employees is reduced to 5 and 7 qualifying employees, respectively, in counties with a population of less than 20,000.
- SB 41** Revised the tax credit review process and required a review of tax credits at least once every 10 years.
- SB 159** Reduced the top income tax rate from 6.9 percent to 6.75 percent starting Tax Year 2022.
- SB 184** Created a net long-term capital gains income tax rate of 0 percent for qualifying income. The new tax rate applies starting Tax Year 2026.
- SB 253** Changed the state’s medical care savings accounts so that investment options that qualify under the federal health savings accounts are allowed for the state accounts as well.
- SB 269** Excluded the capital gains income reported by a taxpayer from the sale of a mobile home park to a qualified buyer from Montana taxable income.

SB 399 Changed Montana’s income tax so that Montana taxable income is based on Federal taxable income. The number of individual income tax brackets was reduced from seven to two, with corresponding rates of 4.7 percent and 6.5 percent. The state’s capital gains income tax credit was also replaced with a 30 percent capital gains income deduction. The bill also eliminated 16 other income tax credits. The elimination of the 16 tax credits applies starting Tax Year 2022, while the other changes apply starting Tax Year 2024.

The following bills passed by the 2023 Legislature affected the individual income tax:

HB 89 Eliminated Montana’s National Guard Life Insurance reimbursements, while also eliminating the personal income tax deduction for the reimbursements.

HB 192 Created an income tax rebate of \$1,250 for individuals and \$2,500 for married taxpayers.

HB 221 Replaced the 30% net-long term capital gains deduction set to be implemented in Tax Year 2024 with separate capital gains tax rates of 3% and 4.1%.

HB 225 Created a refundable income tax credit for taxpayers who legally adopt a child.

HB 245 Expanded the Trades Education and Training tax credit to include additional occupations and industries and to extend the expiration date to December 31, 2028.

HB 397 Allowed the Department of Justice to share information with the Department of Revenue for use in administering and enforcing Montana’s income tax laws.

HB 408 Increased the credit cap for the Student Scholarship Organization and Innovative Education tax credits to \$5 million in Tax Year 2024. The credits are set to increase by 20% if at least 80% of maximum number of credits were claimed the previous tax year.

HB 447 Clarifies when non-resident taxpayers who receive Montana source income for temporary work in the state need to file a Montana income tax return.

HB 601 Clarifies the calculation of the job growth incentive tax credit.

HB 816 Created a supplemental property tax rebate and increased the funding for the income tax created by HB 192.

SB 104 Exempted a portion of a taxpayer’s military retirement income for up to 5 years if they meet the necessary qualifications.

SB 121 Reduced the top personal income tax rate set to be implemented starting Tax Year 2024 from 6.5% to 5.9%. The state’s Earned Income Tax credit is also increased from 3% to 10% of the

federal tax credit starting Tax Year 2024.

- SB 303** Increased the fines for not filing necessary wage withholding or mineral royalty withholding annual statements with the Department of Revenue.
- SB 506** Increased the maximum allowable charitable endowment credit from \$10,000 to \$20,000 and eliminated the sunset date for the credit.
- SB 554** Created an optional pass-through entity tax that may be elected and paid by any pass-through entity filing a return in Montana. Taxpayers reporting income from a pass-through entity can claim a personal income tax credit for any pass-through entity tax paid on their behalf.
- SB 550** Extended and expanded the Montana medical savings account personal income tax exemption.

See previous Biennial Reports for legislative history prior to 2021.

Calculation of Individual Income Tax

Calculation of Taxable Income

Before Tax Year 2024

Before Tax Year 2024, the calculation of Montana’s individual income tax began with the taxpayer’s Federal Adjusted Gross Income. Several adjustments were made to determine Montana Adjusted Gross Income:

- Income taxed by the state but exempted by the federal government was added.
- Income exempted by the state but taxed by the federal government was subtracted.
- Deposits to Montana tax-advantaged savings accounts were subtracted.
- Taxable withdrawals from Montana tax-advantaged savings accounts were added.
- Net adjustments from filing a joint federal return and separate state returns were added.
- Recoveries of costs deducted in previous years (primarily refunds of federal taxes previously deducted) were added.

The values of the taxpayer’s exemptions, and itemized or standard deductions, were subtracted from Montana Adjusted Gross Income to determine Montana taxable income. The state’s standard deduction amount was set at 20 percent of the taxpayer’s Montana Adjusted Gross Income, with minimum and maximum deduction amounts set. The value of exemptions and maximum and minimum standard deductions were adjusted for inflation each year.

Table 3.3 Personal Income Tax Exemptions and Deductions

Tax Year	Single and Separate Returns			Joint Returns	
	Exemption Amount	Min. Standard Deduction	Max. Standard Deduction	Min. Standard Deduction	Max. Standard Deduction
2019	\$2,510	\$2,090	\$4,710	\$4,180	\$9,420
2020	\$2,560	\$2,130	\$4,790	\$4,260	\$9,580
2021	\$2,580	\$2,140	\$4,830	\$4,280	\$9,660
2022	\$2,710	\$2,260	\$5,090	\$4,520	\$10,180
2023	\$2,960	\$2,460	\$5,540	\$4,920	\$11,080

After Tax Year 2024

After Tax Year 2024, the calculation of Montana’s individual income tax is based on the taxpayer’s federal taxable income, but with any deductions for state income taxes paid and the federal qualified business income deduction added back in. As before, other adjustments to taxable income can also be made when determining Montana taxable income. These include:

- Income taxed by the state but exempted by the federal government is added.
- Income exempted by the state but taxed by the federal government is subtracted.
- Deposits to Montana tax-advantaged accounts, such as 529 and ABLE accounts, are subtracted.
- Taxable withdrawals from Montana tax-advantaged savings accounts are added.
- The \$5,500 income exemption for taxpayers at least 65 years old.

As federal taxable income already includes the federal standard or itemized deduction and any personal exemptions, no other adjustments are required to determine Montana taxable income.

Income, Deductions, Credits, and Tax Liability

Tax liability is calculated from the rate table. The rate table shows the tax rates to apply to taxable income, that is, income after making all federal and state adjustments and subtracting exemptions and deductions. The rate table is adjusted each year for inflation. The following tables (Table 3.4, Table 3.5, and Table 3.6) show the upper limit on taxable income subject to each rate and the number of full-year resident returns with taxable incomes that do not exceed the bracket. Non-resident and partial-year resident returns are not included in the table below or in any of the tables in this section. This is due to a significant portion of the income reported on these returns not being taxable by the state.

Table 3.4 Pre-2024 Marginal Tax Rate Income Limits

Tax Rate	Tax Year 2022	Tax Year 2023
1.00%	\$3,300	\$3,600
2.00%	\$5,800	\$6,300
3.00%	\$8,900	\$9,700
4.00%	\$12,000	\$13,000
5.00%	\$15,400	\$16,800
6.00%	\$19,800	\$21,600
6.75%	Unlimited	Unlimited

Table 3.5 Tax Year 2024 Marginal Tax Rate Income Limits

Tax Rate	Filing Status		
	Single	Head of Household	Joint
Non-Capital Gains			
4.7%	\$20,500	\$30,750	\$41,000
5.9%	Unlimited	Unlimited	Unlimited
Net Long-Term Capital Gains			
3.0%	Up To \$20,500	Up To \$30,750	Up To \$41,000
4.1%	Unlimited	Unlimited	Unlimited

Table 3.6 Tax Year 2023 Full-Year Resident Returns

Tax Rate	Primary Return	Spouse Return	Total	% Total
0.00%	79,381	10,563	89,944	14.6%
1.00%	23,303	3,144	26,447	4.3%
2.00%	17,275	3,039	20,314	3.3%
3.00%	22,529	4,198	26,727	4.3%
4.00%	20,533	4,299	24,832	4.0%
5.00%	22,957	5,018	27,975	4.5%
6.00%	27,669	6,325	33,994	5.5%
6.75%	292,396	72,917	365,313	59.3%
Total	506,043	109,503	615,546	100.0%

Any credits the taxpayer may claim are subtracted from their tax liability to determine the net tax. Non-refundable credits can partially or completely offset a taxpayer’s tax liability. Refundable credits can more than offset a taxpayer’s tax liability, so that the taxpayer receives a payment from the state general fund rather than paying tax. Before Tax Year 2024, taxpayers with capital gains income were allowed a nonrefundable credit equal to 2 percent of their capital gains. In effect, this credit reduced the taxes on capital gains to a maximum rate of 4.75 percent, compared to the maximum rate of 6.75 percent for other types of income. Other credits generally are a percentage of a certain type of qualifying expenditure the taxpayer has made.

The next six tables (Table 3.7, Table 3.8, Table 3.9, Table 3.10, Table 3.11 and Table 3.12) show information about individual line items on timely-filed, full-year residents’ income tax returns for Tax Years 2022 and 2023. For each line item, the table shows the count of the number of returns with a value on that line and the sum of those values. The total in each count’s column is the number of returns with a number on at least one line.

Information in these tables is from unaudited returns as filed by taxpayers. It does not reflect changes or adjustments that taxpayers or the department may make after the extension filing deadline. It also does not include information from returns received or processed by the department after November 1.

Table 3.7 Montana Individual Income Tax Income Reported on Full-Year Residents' Returns

Income Items	2022		2023	
	Count	Total	Count	Total
Wage and salary income	458,901	\$23,332,694,100	461,253	\$24,972,540,734
Taxable interest income	208,327	\$368,566,943	241,625	\$855,657,152
Ordinary dividend income	136,728	\$1,128,756,788	141,712	\$1,388,497,033
Taxable refunds of state/local income taxes	12,796	\$13,367,708	14,630	\$17,939,334
Alimony received	366	\$10,194,917	308	\$9,634,504
Business income (Schedule C)	87,805	\$1,179,505,077	89,949	\$1,238,275,926
Capital gains income	134,991	\$3,913,120,779	131,211	\$3,269,504,954
Ordinary income gains	14,068	\$248,169,225	13,131	\$189,391,767
IRA income - Taxable amount	71,327	\$1,438,555,595	67,404	\$1,490,835,858
Pension and annuity income - Taxable amount	116,806	\$3,025,719,032	116,973	\$3,174,709,313
Rent, royalty, partnership, etc. income	99,633	\$4,355,486,932	98,980	\$4,242,044,152
Farm income	16,731	-\$311,203,434	16,463	-\$324,961,932
Unemployment compensation	15,738	\$70,068,144	15,649	\$79,275,782
Taxable social security benefits	117,143	\$1,667,532,817	122,911	\$1,920,208,705
Other income	38,171	-\$221,694,057	41,418	-\$51,079,776
Total	605,313	\$40,218,840,566	611,763	\$42,415,906,394

Table 3.8 Federal Adjustments to Income

Income Items	2022		2023	
	Count	Total	Count	Total
Federal Adjustments to Income				
Educator expenses	10,489	\$2,895,063	10,470	\$2,896,357
Certain business expenses of qualified individuals	537	\$1,993,688	570	\$2,172,155
Health savings account deduction	13,587	\$48,365,484	13,193	\$50,306,359
Moving expenses for members of the Armed Forces	252	\$663,652	291	\$871,972
One-half self-employment tax	71,062	\$120,009,724	72,309	\$124,011,990
Self-employed SEP, SIMPLE, and qual. plans	2,871	\$64,922,623	2,822	\$66,345,746
Self-employed health insurance deduction	22,625	\$149,819,439	22,264	\$156,003,629
Penalty on early withdrawal of savings	2,084	\$832,177	3,209	\$1,707,895
Alimony paid	631	\$13,986,585	532	\$11,739,235
IRA deduction	13,397	\$62,122,400	13,167	\$62,796,894
Student loan interest deduction	14,700	\$11,281,776	27,225	\$16,659,122
Archer MSA deduction	26	\$32,879	18	\$48,081
Other deductions	1,276	\$9,150,951	1,635	\$34,355,269
Total adjustments to income	119,817	\$486,076,441	131,418	\$529,914,704
Federal Adjusted Gross Income	605,329	\$39,732,916,291	611,764	\$41,885,991,690

Table 3.9 Montana Additions Reported on Full-Year Residents' Returns

Income Items	2022		2023	
	Count	Total	Count	Total
Montana Additions to Federal Adjusted Gross Income				
Taxable federal refunds	26,902	\$33,916,812	26,804	\$38,222,898
Recoveries of amounts deducted in earlier years	194	\$276,880	508	\$411,008
Interest on other states' municipal bonds	21,478	\$94,752,304	21,138	\$113,257,480
Dividends not included in federal adjusted gross income	965	\$993,149	940	\$846,226
Adjustment for smaller federal estate and trust taxable distributions	246	\$696,801	213	\$2,344,328
Medical savings account nonqualified withdrawals	275	\$869,951	234	\$689,284
First-time home buyer's account nonqualified withdrawals	16	\$51,430	12	\$45,637
Allocation of compensation to spouse	237	\$4,133,746	209	\$3,967,232
Federal net operating loss carryover	4,943	\$491,094,461	4,486	\$425,016,522
Expenses used to claim a Montana tax credit	55	\$742,784	51	\$209,104
Farm and ranch risk management account taxable distributions	*	\$4,629	*	\$801
Federal taxes paid by your S. corporation	400	\$4,196,129	3,327	\$96,528,503
Title plant depreciation and amortization	*	\$5	*	\$100,750
Other additions	1,684	\$27,229,196	2,355	\$24,347,258
Addition to taxable social security benefits	9,073	\$22,716,033	9,709	\$22,973,762
Total Montana Additions	59,115	\$681,671,620	63,238	\$783,346,292

* Not disclosed due to confidentiality concerns

Table 3.10 Montana Subtractions Reported on Full-Year Residents' Returns

Montana Subtractions from Federal Adjusted Gross Income	2022		2023	
	Count	Total	Count	Total
State tax refunds included in Federal Adjusted Gross Income	12,695	\$13,167,030	14,537	\$17,761,970
Federal bonds exempt interest	28,617	\$47,207,761	37,105	\$139,105,688
Elderly interest exclusion	94,528	\$37,966,773	105,467	\$56,323,782
Larger federal estate and trust taxable distributions	452	\$2,994,425	468	\$3,926,017
Exempt income of child taxed to parent	136	\$473,558	154	\$584,051
Recoveries of amounts deducted in earlier years	37	\$714,330	320	\$694,562
Exempt unemployment compensation	15,738	\$70,068,144	15,649	\$79,275,782
Exempt tribal income	5,566	\$255,683,004	5,576	\$405,640,646
Exempt tip income	24,160	\$122,035,317	22,352	\$124,077,840
Exempt worker's comp benefits	141	\$994,545	150	\$983,491
Exempt health insurance premiums taxed to employee	98	\$501,614	117	\$670,584
Student loan repayments taxed to health care professional	348	\$1,164,412	612	\$1,680,338
Student loan repayments taxed to educator	67	\$184,903	67	\$206,197
Exempt active duty military salary	5,007	\$231,079,130	4,821	\$238,092,021
Exempt life insurance premiums reimbursement (National Guard)	26	\$29,357	15	\$110,053
Medical care savings account exempt deposits	6,791	\$24,217,502	6,884	\$25,393,441
First-time home buyer exempt savings account deposits	260	\$972,820	220	\$674,039
Family education savings account exempt deposits	7,857	\$18,997,754	7,993	\$19,202,170
ABLE account exempt deposits	187	\$380,383	225	\$520,131
Subtraction for spouse filing joint return: capital loss adjustment	343	\$1,953,519	329	\$651,897
Subtraction for spouse filing joint return: passive loss carryover	127	\$1,319,353	114	\$1,599,723
Allocation of compensation to spouse	239	\$4,136,754	209	\$3,967,232
Montana net operating loss carryover	3,956	\$352,305,328	3,829	\$316,991,044
Business expense of recycled material	89	\$904,440	94	\$288,638
Business expenses not included in Federal AGI due to federal credit	284	\$3,139,027	244	\$2,550,305
Medical marijuana provider expenses	68	\$7,920,136	77	\$6,671,294
Sales of land to beginning farmers	0*	0	0	0
Capital gains from small business investment companies	24	\$222,230	20	\$35,540
Certain gains recognized by liquidating corporation	*	\$626,689	*	\$233,346
Farm and ranch risk management accounts exempt deposits	*	\$803	*	\$1,000
Gain on eligible sale of mobile home park	*	\$787,338	0	0
Pass-through Subtractions Reported on K-1	686	\$12,593,396	987	\$22,789,194
Exempt retirement disability income (under age 65)	18	\$92,658	14	\$61,548
Subtraction for federal taxable Tier II railroad retirement	3,156	\$55,194,883	3,084	\$56,881,820
Subtraction for federal taxable Tier I railroad retirement	1,981	\$28,339,037	2,181	\$34,133,687
Exempt pension income	49,447	\$205,312,143	51,181	\$228,981,362
Subtraction to federal taxable social security	52,343	\$267,935,985	56,136	\$311,329,589
Total Montana Subtractions	205,740	\$1,771,616,495	215,000	\$2,102,090,026

* Not disclosed due to confidentiality concerns

Table 3.11 Montana Deductions Reported on Full-Year Residents' Returns

Deductions	2022		2023	
	Count	Total	Count	Total
Deductible medical expenses	49,214	\$304,195,192	47,601	\$316,871,679
Medical insurance premiums not deducted elsewhere	123,784	\$565,333,261	123,930	\$660,771,330
Long-term care insurance premiums	11,103	\$28,916,875	10,539	\$28,087,891
Federal Income Tax				
Federal income tax withheld*	241,972	\$2,276,073,537	233,649	\$2,315,516,624
Federal income tax estimated payments*	52,144	\$1,234,184,903	52,374	\$1,159,367,006
Last year's federal income tax paid (e.g. with return)*	79,063	\$1,330,343,475	72,316	\$983,733,788
Federal income tax from previous years*	1,307	\$7,693,800	1,227	\$6,079,769
Total federal income tax deduction	270,991	\$1,178,374,560	262,001	\$1,151,420,993
State or local sales tax	394	\$382,458	383	\$309,184
Local income taxes	462	\$293,061	414	\$215,008
Real estate taxes	216,572	\$639,435,897	214,481	\$733,944,625
Personal property taxes	135,106	\$48,033,739	128,526	\$46,122,984
Combined State and Local Tax Deduction	232,567	\$634,229,242	227,909	\$676,103,837
Montana light vehicle registration fee	35,009	\$7,913,839	33,584	\$7,469,337
Per capita livestock fee	578	\$83,399	547	\$200,538
Other deductible taxes	6,130	\$2,818,356	6,068	\$3,129,203
Home mortgage interest	149,526	\$900,683,824	145,316	\$1,007,632,419
Investment interest	6,236	\$44,614,080	6,485	\$70,524,420
Contributions by cash or check	145,277	\$585,440,790	139,832	\$583,088,556
Contributions other than cash or check	53,889	\$148,049,106	53,055	\$154,222,790
Carryover of contributions from previous years	2,758	\$37,023,310	2,498	\$41,848,209
Child and dependent care expenses	230	\$509,733	216	\$425,443
Casualty and theft losses	347	\$4,435,344	38	\$2,157,970
Political contributions	8,620	\$847,647	7,999	\$770,120
Gambling losses	1,772	\$32,478,313	1,963	\$43,622,888
Other miscellaneous deductions	1,661	\$46,465,916	1,567	\$14,850,415
Total itemized deductions	301,911	\$4,522,412,787	292,094	\$4,763,198,038
Standard deductions	277,973	\$1,444,885,788	291,976	\$1,660,352,691
Total deductions	605,339	\$5,967,298,575	611,904	\$6,423,550,729

* Items either are a part of another line or include another line. They are not part of the total.

Table 3.12 Montana Tax Exemptions, Taxable Income, Tax, Payments on Full-Year Residents Returns

	2022		2023	
	Count	Total	Count	Total
Exemptions *				
Self Exemption		609,240		615,546
Self 65 and Over Exemption		147,992		152,394
Self Blind Exemption		1,033		997
Total Taxpayer Exemptions	609,240	758,265	615,546	768,937
Spouse Exemption		82,837		82,989
Spouse 65 and Over Exemption		28,034		28,548
Spouse Blind Exemption		167		182
Total Spouse Exemptions	82,837	111,038	82,989	111,719
Dependent Exemptions	130,037	235,837	130,166	235,656
Total Exemptions	609,240	1,105,140	615,546	1,116,312
Value of Exemptions		\$2,994,921,270		\$3,304,282,270
Taxable Income				
Federal Adjusted Gross Income	605,329	\$39,732,916,291	611,764	\$41,885,991,690
+Montana Additions	59,115	\$681,671,620	63,238	\$783,346,292
-Montana Subtractions	205,740	\$1,771,616,495	215,000	\$2,102,090,026
-Deductions	605,339	\$5,967,298,575	611,904	\$6,423,550,729
-Value of Exemptions	609,238	\$2,994,921,270	615,546	\$3,304,282,270
Montana Taxable Income	609,214	\$29,680,599,405	615,529	\$30,839,414,957
Tax Liability Before Credits				
Tax from Tax Table	520,635	\$1,802,003,606	525,217	\$1,868,290,410
Tax on Lump Sum Distributions	13	\$768	*	\$24
Recapture of Credits Claimed Previously	12	\$10,443	12	\$11,197
Total Tax	520,637	\$1,802,014,817	525,217	\$1,868,301,631
Payments				
Montana income tax withheld from wages	487,371	\$1,268,629,373	492,533	\$1,343,244,454
Estimated tax payments	50,529	\$325,507,716	47,060	\$261,454,747
Overpayment applied from previous tax year	21,187	\$68,910,670	26,573	\$85,792,020
Withholding from pass-through entities	1,049	\$5,125,498	1,007	\$7,166,578
Other payments	9,103	\$84,817,947	0	\$0
Total Payments	544,516	\$1,764,164,128	548,867	\$1,935,580,646

* Taxpayers claim exemptions for themselves and their spouses by checking boxes on the return. The counts for exemptions show the number of returns where the taxpayer claimed at least one exemption for themselves, their spouse, or dependents.

The totals column shows the number and type of exemptions claimed. For the taxpayer and spouse, the totals column shows the numbers of basic exemptions and extra exemptions for being 65 or over or blind. For dependent exemptions, the count is the number of returns claiming at least one dependent, and the total is the number of dependents claimed.

Table 3.13 Montana Credits Reported on Full-Year Resident Returns

	2022		2023	
	Count	Total	Count	Total
Credits				
Non-Refundable and No Carryover				
Capital gains income tax credit	84,846	\$79,894,105	78,663	\$67,122,869
Other states' income tax credit	18,090	\$77,406,239	16,231	\$70,101,811
Qualified endowment tax credit	727	\$3,372,075	671	\$3,126,367
Recycling tax credit	106	\$642,146	84	\$590,774
Apprenticeship credit	436	\$596,970	489	\$682,857
Trades education and training credit	32	\$34,641	26	\$53,521
Non-Refundable but with Carryover				
Innovative educational program credit	23	\$209,131	59	\$763,376
Student scholarship organization credit	43	\$590,850	49	\$1,818,564
Contractor's gross receipts tax credit	612	\$6,438,103	594	\$6,728,830
Historic property preservation tax credit	*	\$828	*	\$5,832
Infrastructure user fee credit	*	\$74,578	*	\$4,196,583
Jobs growth incentive credit	0	\$0	0	\$0
Media credit	*	\$800,619	23	\$2,845,824
Total Non-Refundable Credits	98,284	\$170,132,544	91,025	\$158,168,451
Refundable Credits				
Adoption credit	N/A	N/A	234	\$1,839,079
Earned income tax credit	58,334	\$3,737,191	57,384	\$3,943,201
Elderly homeowner/renter tax credit	16,242	\$10,579,731	15,195	\$10,022,907
Pass-through entity tax credit	N/A	N/A	7,635	\$153,770,432
Unlocking state lands credit	*	\$1,500	*	\$1,929
Total Refundable Credits	74,578	\$14,318,422	80,452	\$173,520,749
Total Credits	112,711	\$184,450,966	163,748	\$331,689,200

* Not disclosed due to confidentiality concerns

Figure 3.2 Breakdown of Income Sources – Tax Year 2023

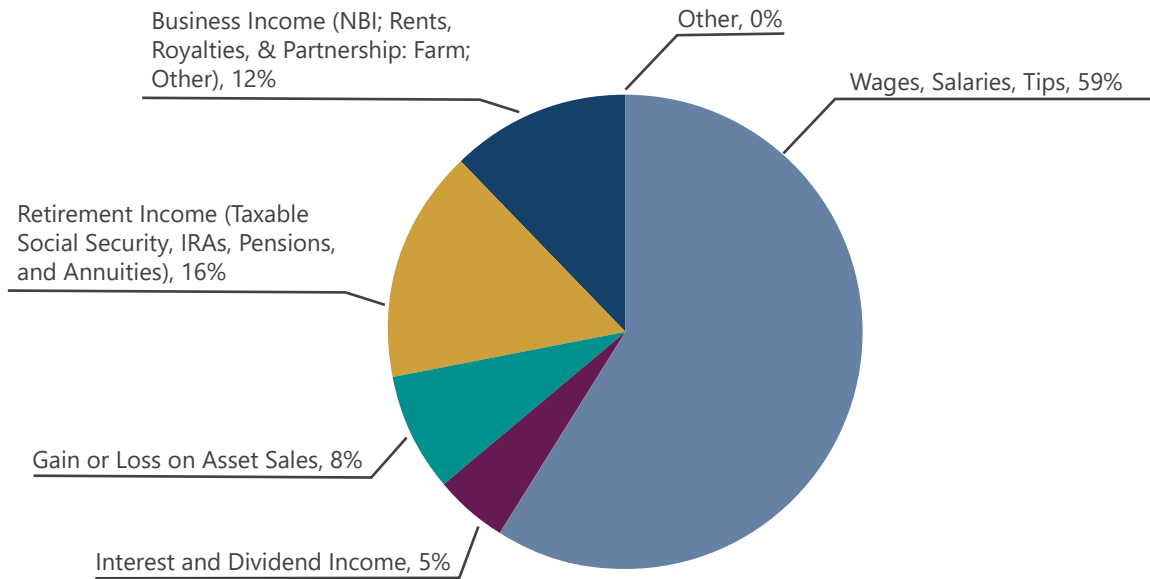
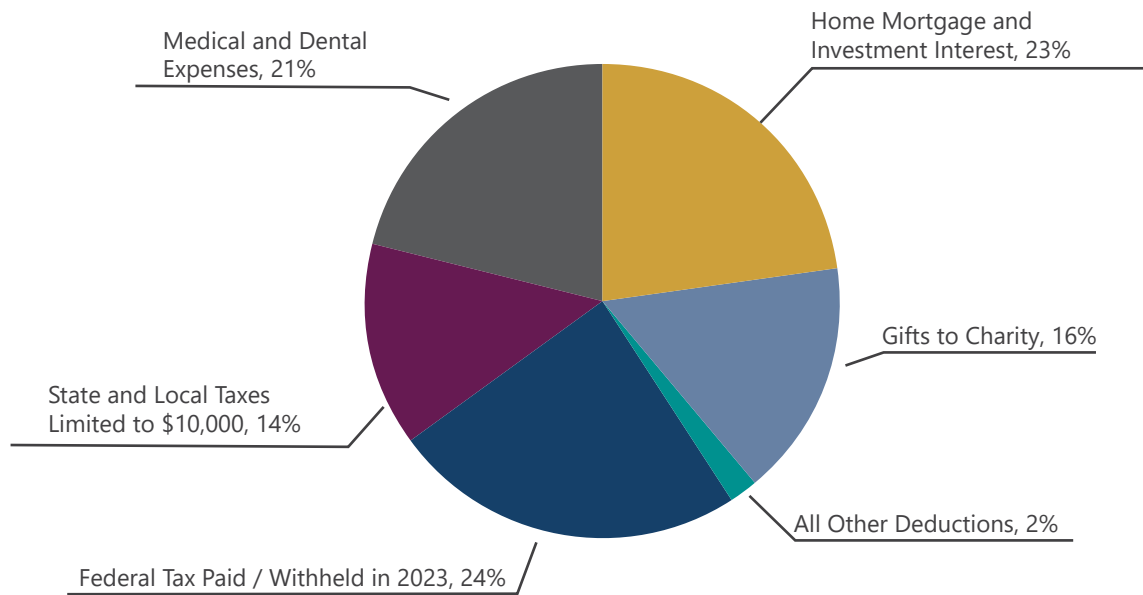


Figure 3.3 Breakdown of Itemized Deductions – Tax Year 2023



The following tables show Montana Adjusted Gross Income, deductions, taxable income, and tax liability by decile group for full-year Montana residents. Each decile is 10 percent of the population of full year resident returns, sorted by adjusted gross income. Group 1 is the 10 percent with the lowest incomes, while Group 10 is the 10 percent with the highest incomes. In these tables, married couples who file separate returns on the same form are counted as two returns and their income and tax are counted separately. Non-residents and part-year residents are not included because their tax depends on the fraction of income that is apportioned to Montana, which varies widely for these individuals.

Table 3.14 Deciles of Montana Adjusted Gross Income: Full-Year Residents:

Tax Years 2022 and 2023

Decile Group	2022				2023			
	Returns	Income Range	Montana Adjusted Gross Income		Returns	Income Range	Montana Adjusted Gross Income	
			\$ million	% of total			\$ million	% of total
1	60,924	less than \$5,264	-\$360.5	-1%	61,554	less than \$5,580	-\$469.8	-1%
2	60,924	\$5,264 to \$13,262	\$566.5	1%	61,555	\$5,580 to \$14,263	\$611.6	2%
3	60,924	\$13,263 to \$21,950	\$1,066.7	3%	61,554	\$14,264 to \$23,568	\$1,159.4	3%
4	60,924	\$21,951 to \$31,116	\$1,617.6	4%	61,555	\$23,569 to \$33,273	\$1,750.7	4%
5	60,924	\$31,117 to \$40,412	\$2,176.4	6%	61,555	\$33,274 to \$43,053	\$2,344.5	6%
6	60,924	\$40,413 to \$50,128	\$2,749.7	7%	61,554	\$43,054 to \$53,331	\$2,961.0	7%
7	60,924	\$50,129 to \$62,209	\$3,405.5	9%	61,555	\$53,332 to \$65,881	\$3,651.8	9%
8	60,924	\$62,210 to \$79,243	\$4,269.2	11%	61,554	\$65,882 to \$83,618	\$4,558.5	11%
9	60,924	\$79,244 to \$114,186	\$5,721.0	15%	61,555	\$83,619 to \$119,541	\$6,081.2	15%
10	60,924	more than \$114,186	\$17,430.7	45%	61,555	more than \$119,541	\$17,918.2	44%
All	609,240		\$38,642.8		615,546		\$40,567.2	

Table 3.15 Deductions by Decile Group: Full-Year Residents: Tax Years 2022 and 2023

Decile Group	2022					2023				
	% Returns Itemize	Itemized Deductions		Standard Deductions		% Returns Itemize	Itemized Deductions		Standard Deductions	
		\$ million	Average	\$ million	Average		\$ million	Average	\$ million	Average
1	33%	\$158.3	\$7,936	\$109.6	\$2,675	32%	\$165.2	\$8,348	\$121.5	\$2,908
2	30%	\$140.6	\$7,608	\$113.2	\$2,666	30%	\$182.1	\$10,026	\$125.6	\$2,895
3	34%	\$178.8	\$8,751	\$150.1	\$3,705	32%	\$191.9	\$9,635	\$166.2	\$3,993
4	32%	\$203.0	\$10,282	\$207.3	\$5,034	31%	\$198.5	\$10,354	\$230.3	\$5,434
5	33%	\$221.0	\$10,838	\$223.8	\$5,521	32%	\$204.3	\$10,310	\$249.3	\$5,973
6	47%	\$313.9	\$11,033	\$196.2	\$6,042	44%	\$361.6	\$13,291	\$222.6	\$6,483
7	59%	\$444.5	\$12,421	\$164.3	\$6,538	55%	\$454.6	\$13,434	\$194.5	\$7,019
8	69%	\$584.2	\$13,956	\$129.2	\$6,777	64%	\$595.9	\$15,018	\$158.4	\$7,242
9	77%	\$758.5	\$16,158	\$99.4	\$7,109	73%	\$786.6	\$17,389	\$123.4	\$7,558
10	88%	\$1,519.7	\$28,254	\$51.8	\$7,260	86%	\$1,622.2	\$30,700	\$68.8	\$7,888
All	50%	\$4,522.4	\$13,041	\$1,444.9	\$4,762	48%	\$4,763.0	\$14,115	\$1,660.6	\$5,191

Table 3.16 Deductions as a Percent of Montana Adjusted Gross Income: Full-Year Residents: Tax Years 2022 and 2023

Decile Group	2022			2023		
	Itemized Deductions	Standard Deductions	All	Itemized Deductions	Standard Deductions	All
1	-87%	-61%	-74%	-69%	-52%	-61%
2	81%	29%	45%	100%	29%	50%
3	50%	21%	31%	51%	21%	31%
4	39%	19%	25%	36%	19%	24%
5	30%	15%	20%	27%	16%	19%
6	24%	13%	19%	27%	14%	20%
7	22%	12%	18%	23%	12%	18%
8	20%	10%	17%	20%	10%	17%
9	17%	8%	15%	18%	8%	15%
10	9%	4%	9%	10%	4%	9%
All	16%	14%	15%	17%	14%	16%

Table 3.17 Taxable Income and Tax Liability - Tax Years 2022 and 2023

Decile Group	2022						2023					
	Taxable Income			Tax Liability			Taxable Income			Tax Liability		
	\$ million	Average	% of Total	\$ million	Average	% of Total	\$ million	Average	% of Total	\$ million	Average	% of Total
1	\$0.6	\$11	0.0%	\$0.0	\$0	0.0%	\$0.5	\$8	0%	\$0.0	\$0	0%
2	\$166.0	\$2,725	0.5%	\$2.3	\$38	0.1%	\$174.1	\$2,828	1%	\$2.4	\$39	0%
3	\$506.2	\$8,309	1.6%	\$11.5	\$188	0.7%	\$549.8	\$8,932	2%	\$12.4	\$201	1%
4	\$959.4	\$15,747	3.1%	\$32.2	\$528	1.9%	\$1,039.1	\$16,881	3%	\$34.4	\$559	2%
5	\$1,499.1	\$24,605	4.9%	\$64.8	\$1,064	3.8%	\$1,606.4	\$26,096	5%	\$68.6	\$1,114	4%
6	\$1,967.8	\$32,300	6.4%	\$95.6	\$1,569	5.5%	\$2,115.4	\$34,366	7%	\$102.1	\$1,658	6%
7	\$2,508.5	\$41,175	8.1%	\$131.4	\$2,158	7.6%	\$2,685.5	\$43,628	8%	\$139.9	\$2,273	8%
8	\$3,248.8	\$53,325	10.5%	\$180.6	\$2,965	10.5%	\$3,466.6	\$56,318	11%	\$192.0	\$3,119	11%
9	\$4,526.3	\$74,294	14.7%	\$264.9	\$4,348	15.3%	\$4,801.0	\$77,995	15%	\$280.2	\$4,552	16%
10	\$15,490.6	\$254,262	50.2%	\$942.3	\$15,468	54.6%	\$15,821.6	\$257,032	49%	\$972.2	\$15,794	54%
All	\$30,873.4	\$50,675		\$1,725.7	\$2,833		\$32,259.9	\$52,409		\$1,804.1	\$2,931	

Table 3.18 Tax as Percent of Montana Adjusted Gross Income

Decile Group	2022			2023		
	Montana Adjusted Gross Income \$ million	Tax Liability \$ million	Tax / Income %	Montana Adjusted Gross Income \$ million	Tax Liability \$ million	Tax / Income %
1	-\$360.5	\$0.0	0.0%	-\$469.8	\$0.0	0.0%
2	\$566.5	\$2.3	0.4%	\$611.6	\$2.4	0.4%
3	\$1,066.7	\$11.5	1.1%	\$1,159.4	\$12.4	1.1%
4	\$1,617.6	\$32.2	2.0%	\$1,750.7	\$34.4	2.0%
5	\$2,176.4	\$64.8	3.0%	\$2,344.5	\$68.6	2.9%
6	\$2,749.7	\$95.6	3.5%	\$2,961.0	\$102.1	3.4%
7	\$3,405.5	\$131.4	3.9%	\$3,651.8	\$139.9	3.8%
8	\$4,269.2	\$180.6	4.2%	\$4,558.5	\$192.0	4.2%
9	\$5,721.0	\$264.9	4.6%	\$6,081.2	\$280.2	4.6%
10	\$17,430.7	\$942.3	5.4%	\$17,918.2	\$972.2	5.4%
All	\$38,642.8	\$1,725.7	4.5%	\$40,567.2	\$1,804.1	4.4%

The table below breaks down the returns based on the Montana Adjusted Gross Income reported on the returns. Unlike the previous tables, which broke down the returns into equal categories, the number of returns in each of the categories below is uneven, with a larger number of returns in the lower income categories and a smaller number of returns in the larger income categories.

Table 3.19 Tax Year 2023 Returns by Montana Adjusted Gross Income

Montana Adjusted Gross Income	Primary Return	Spouse Return	Total	% Total
Less Than \$0	19,918	3,607	23,525	3.8%
Between \$0 and \$50,000	269,648	56,998	326,646	53.1%
Between \$50,000 and \$100,000	141,142	36,435	177,577	28.8%
Between \$100,000 and \$150,000	41,638	7,481	49,119	8.0%
Between \$150,000 and \$200,000	13,720	2,156	15,876	2.6%
Between \$200,000 and \$250,000	6,219	1,045	7,264	1.2%
Between \$250,000 and \$300,000	3,547	538	4,085	0.7%
Between \$300,000 and \$350,000	2,319	351	2,670	0.4%
Between \$350,000 and \$400,000	1,581	197	1,778	0.3%
Between \$400,000 and \$450,000	1,087	113	1,200	0.2%
Between \$450,000 and \$500,000	806	121	927	0.2%
More than \$500,000	4,418	461	4,879	0.8%
Total	506,043	109,503	615,546	100.0%

Taxation of Business Income

Business Structure and Taxation

The legal ownership structure of a business generally determines how income from the business is taxed. Business organization is established by state law. A business operating in Montana may be organized under the laws of Montana (generally Title 35, Montana Code Annotated) or of the laws of another state. States vary somewhat in the options for business organization they allow and in the details of particular business structures.

While tax considerations may affect a business's choice of ownership structure, there are other factors that may have a larger influence. Different business structures give the owners different types of protection from or exposure to the business's legal and financial liabilities. They have different mechanisms for decision making and control of the business's operations, and different arrangements for the sharing of income, expenses, risks, and rewards among the owners.

Business structures offer different levels of privacy or transparency of ownership. How a business is organized can also affect its ability to access capital markets. Most corporations and some types of partnerships can raise funds by issuing new shares. Existing shares can be bought and sold without requiring the other owners' consent. In other business structures, buying and selling ownership interests or raising funds by bringing in new owners may require the other owners' consent.

For taxation, the Internal Revenue Code puts all businesses in one of three categories. Montana law generally requires a business to be in the same category for state taxation as it is for federal taxation.

Individuals/Sole Proprietors

Informally organized sole proprietor businesses are not treated as an entity separate from the owner for income tax reporting purposes. The owner of a sole proprietor business must be an individual or a married couple. Some formally organized businesses with a single owner are not sole proprietor businesses and are treated as separate from the owner for income tax reporting purposes. These businesses are called disregarded entities and are subject to filing a Montana information return and income tax withholding on behalf of the owner, when such owner is not a resident. The disregarded entity's income is still reported on the owner's tax return and is taxed as part of the owner's income. If the disregarded entity pays income tax on behalf of the owner, the owner can claim the payment as a refundable credit.

Pass-Through Entities

Partnerships, limited liability companies, and other unincorporated businesses with more than one owner generally are treated as pass-through entities. A corporation with no more than 100 shareholders, with a single class of stock, and with no shareholders that are another business entity or a nonresident alien, may elect to be treated as a pass-through entity. Such a corporation is known as an S corporation because its taxation is laid out in Subchapter S of Chapter 1 of the Internal Revenue Code.

For a pass-through entity, there is no tax on income at the business entity level. The entity calculates its net income and each owner's share of that net income. The owners must include that income (or loss) in the calculation of their taxable income. An owner's income from a pass-through entity is their distributive share of the entity income, whether the income is distributed to the owners or remains in the business to finance expansions or other investments.

When a pass-through entity retains part of its income, the accounting value of each ownership interest is increased by the owner's share of the retained income. If the pass-through pays out more than its annual net income, the excess is treated as a return of a portion of the owner's investment. It is not taxed, and the accounting value of each ownership interest is reduced by the owner's share of the excess distribution.

A pass-through entity is required to file an annual information return showing the calculation of its net income or loss and the distribution of that income or loss to owners. The owners are then responsible for reporting this income on their tax returns and including it in the calculation of their taxable income. If a pass-through entity has a nonresident or second-tier pass-through entity owner, then the pass-through must include the owner in a composite return or withhold income tax on behalf of the owner. Some owners who do not elect to pay composite tax can apply for a waiver of withholding. See the Pass-through Entities section elsewhere in this report.

C Corporations

A corporation that does not meet the requirements to be allowed pass-through entity treatment, or that does not choose pass-through treatment, is taxed on income at the business entity level. The corporation calculates its net income and is taxed on it at the corporate income tax rate.

The corporation's income is not directly attributed to the owners. A corporation's owners must include dividends they receive in the calculation of their taxable income. A corporation may pay dividends that are more or less than its net income. If dividends are less than net income, there is no adjustment to the accounting value of individual shares. This allows a corporation to retain profits for reinvestment without the shareholders being taxed on those profits.

Table 3.20 on the next page shows the characteristics of businesses falling into each of the four business tax categories.

Table 3.20 Business Structure and Taxation

	Sole Proprietor	Pass-Through Entity (S Corporation or Partnership)	C Corporation	Disregarded Entity
Legal Business Organization	Informal	Partnership, Limited Liability Company (LLC), Corporation, Limited Partnership, etc.	Corporation	Single Member LLC, etc.
May Be Owned By	Individual or Married Couple	Individuals or Other Business Entities	Individuals or Other Business Entities	Individuals or Other Business Entities
Business Income and Owner's Income	The business net income is all attributed to the owner.	The business calculates its net income, and this income is attributed to the owners.	The business calculates its net income. Owners' income is dividends received.	The business net income is all attributed to the owner.
Distribution of Income to Owners	The business net income is the owners' income from the business.	Distributions to owners need not equal businesses' current net income.	Business pays dividends to shareholders. Dividends need not equal businesses' current net income.	Distribution to owner need not equal businesses' current net income.
Taxation	Owner reports income from business as part of income subject to individual income tax.	No tax at the entity level. Owners responsible for tax on income attributed to them.	Business net income subject to corporation income tax. Owners taxed on dividends.	Entity is ignored. Businesses' income is taxed as owner's income.
Reporting	The business receipts and costs are reported on Schedule C of the owners' federal tax return (Schedule F for a farm), and net income is reported on Line 12 for Business Income or Loss (Line 18 for Farm Income or Loss) of the state return.	The business files federal and state information returns. Federal return shows receipts and costs and both show income, deductions, and credits passed through to owners. Owners report their share of net business income from the pass-through as business income (Schedule E and Line 17 of the tax return for individuals). If the business receives dividends, capital gains, or other passive income, owners report those separately on the appropriate return lines.	The business files federal and state corporate income tax returns and a federal information report, Form 1099-DIV, for each owner who received at least \$10 of dividends. Owners report dividends received on their tax returns (Line 9 of state return for individuals).	Income is reported on owner's return. Information return required if owner is a non-resident.

Business Structure, Tax Administration, and Compliance

Taxation of business income can be complicated when a business operates in more than one taxing jurisdiction and when one business entity is partly or completely owned by another. When a business operates in more than one taxing jurisdiction, it is necessary to decide how much of the business's income is taxable by each jurisdiction. When one business entity owns another, or two businesses have a common owner, it can be necessary to decide how much of the common income is due to each business. When affiliated businesses operate across multiple jurisdictions, the complications are compounded.

A general principle, followed by most U.S. state and most countries, is that business income should be taxable by the jurisdiction where the business activity that created the income took place and should not be taxable by other jurisdictions. This is often called the source principle of income taxation.¹

When a business operates in more than one taxing jurisdiction, each must decide how much of the business's income has its source in that jurisdiction. For example: a company harvests timber and mills it into lumber in Montana and sells the lumber in North Dakota. The company receives all its gross income in North Dakota and pays most of its costs in Montana. Its net income, which is the basis of taxation in both Montana and North Dakota, is due to the combined operation in both states.

Each state decides how much of the combined net income to tax through a process called apportionment. Each state uses a formula to determine an apportionment factor, the portion of the company's business income² to attribute to operations in the state. Over the past two legislative sessions, Montana has moved from an equal-weighted three-factor apportionment formula to a double-weighted sales, three-factor apportionment formula to single-sales apportionment factor where the apportionment factor is solely based on the proportions of a company's sales in Montana to total sales. Other states use one of these three formulas, but the trend around the country is moving towards single sales apportionment, in conjunction with market-based sourcing. More information on apportionment factors can be found in the corporate income tax section.

If lumber production in Montana and lumber sales in North Dakota were separate, unrelated businesses, there would be no need for apportionment. The lumber production company's net income would be the difference between its receipts from selling lumber wholesale and its costs of harvesting timber and milling lumber. This net income would be taxable by Montana. The lumber sales company's net income would be the difference between its receipts from retail lumber sales and its costs of buying the lumber wholesale and operating its lumber yards. This net income would be taxable by North Dakota.

If the two companies in this example are affiliates, such as two separate legal entities both owned by a third company, the situation becomes more complicated. Apportionment is still needed because wholesale lumber sales from the mill in Montana to the yards in North Dakota are not considered arms-length transactions with affiliate companies. The transfer prices at which the lumber mill sells to the lumberyards are not determined in a market and do not necessarily reflect the lumber's true value.

¹ The source principle of income taxation contrasts with the destination principle of consumption taxation. U.S. states and most countries follow the principle that taxes on consumptions, such as sales taxes, should be levied by the jurisdiction where the goods or services are used rather than by jurisdictions where they are made or sold

² Income that is not from a company's normal line of business, such as income from the sale of some of a company's assets, generally is assigned to the state where the assets are located rather than being apportioned.

From the point of view of the parent company, these transfer prices are irrelevant. The mill's revenue from wholesale sales and the lumberyard's expenses for wholesale purchases cancel each other out. The parent company's net income is the difference between the revenue from retail lumber sales and the costs of timber harvesting, lumber milling, and lumberyard operations.

Montana law addresses this problem through combined reporting. Affiliated companies that are not engaged in clearly identifiable separate businesses are required to file a single, combined return and to apportion the group's income. The Montana timber harvesting and lumber milling company, the North Dakota lumberyard company, and their parent company would file a combined return and should pay the same Montana taxes as if they were a single company.

Another complication can arise when affiliated companies are pass-through entities and there is a tiered ownership structure, with a company that is actually conducting business being owned by a second-tier pass-through entity. The second-tier pass-through entity may be one of several owned by a third-tier pass-through entity, which may be a partnership owned by several fourth-tier pass-through entities, and so on.

As income passes through this chain to the individuals who are the ultimate owners, its original source may be ignored. For example, a person in New York or California who is a partner in a company that owns other companies may be unaware that part of their income from this partnership ultimately comes from business operations in Montana. In this case, they are likely to overlook their obligation to pay income tax in Montana.

Montana law tries to address this problem by requiring pass-through entities with out-of-state owners either to have the out-of-state owners agree to file Montana tax returns, to withhold Montana tax for the out-of-state owners, or to file a composite return and pay Montana tax on behalf of its owners.

Montana law requires individual corporations and affiliated groups to report worldwide income and apportion a share to Montana, with one exception. A group of affiliated companies may make what is called a water's edge election. When a group makes this election, it is only required to include affiliates in its combined report if one or more of these situations exists:

- the primary company owns at least half the stock and at least 20 percent of the affiliate's payroll and property is in the United States
- the affiliate is one of several types of companies defined in federal law that only engage in
- international trade
- the affiliate has gains or losses from selling U.S. real estate, or
- the affiliate is incorporated in one of the countries listed as tax havens in Montana law

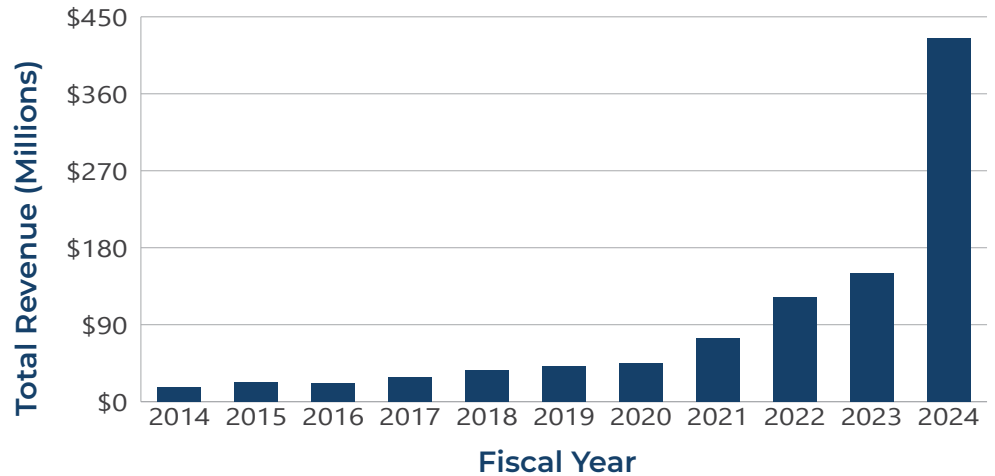
A corporate group that makes the water's edge election is taxed at a rate of 7 percent rather than the normal rate of 6.75 percent.

Pass-Through Entities

Table 3.21 Income Tax Collections paid by Pass-through Entities

Fiscal Year	Total Revenue
2014	\$16,972,674
2015	\$22,981,503
2016	\$22,125,425
2017	\$28,421,676
2018	\$36,422,032
2019	\$42,002,629
2020	\$44,874,531
2021	\$74,824,347
2022	\$122,266,716
2023	\$150,332,288
2024	\$424,594,807

Figure 3.4



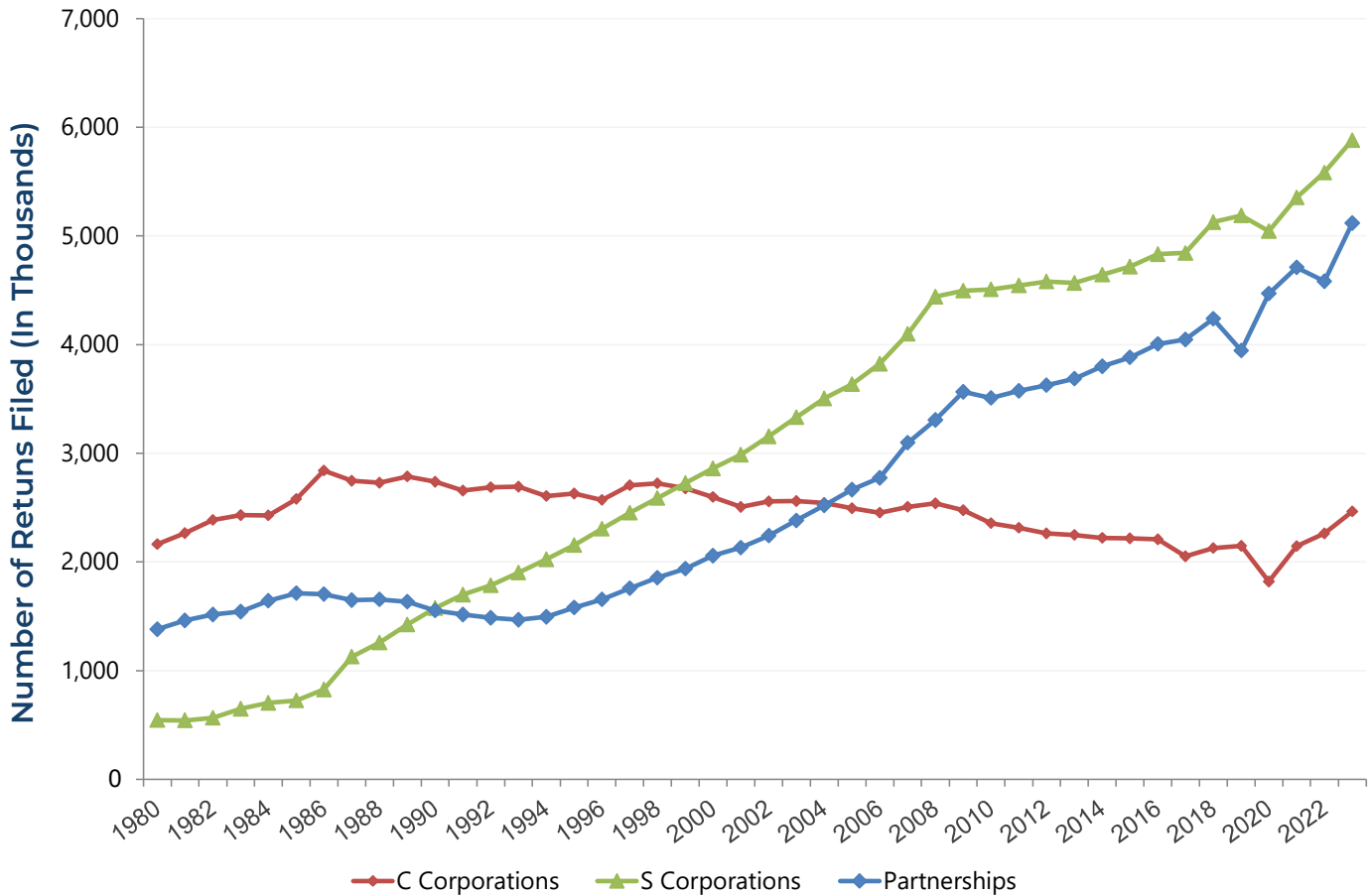
Income taxes paid by pass-through entities have increased significantly in Montana over recent years. A big component of the significant jump in collections in Fiscal Year 2024 are from pass-through entity tax (PTET) payments, which were introduced by the 2023 Legislature and began for Tax Year 2023.

Growth of Pass-Through Entities

Increasingly, both in Montana and nationwide, business and investment activities are being conducted by pass-through entities. The graph below shows the number of returns filed with the IRS by C corporation versus those filed by pass-through entities (partnerships and S corporations) from 1980 through 2021. The graphs and history in this section are from the Internal Revenue Service’s annual Data Book and other Statistics of Income Division reports.

Number of U.S. C Corporation Returns Compared to S Corporation and Partnership Returns (Pass-Through Entities): 1980-2021

Figure 3.5 Number of U.S. C Corporation Returns Compared to S Corporation and Partnership Returns (Pass-Through Entities), 1980-2021



The number of C corporation returns declined slightly over the past few decades from a peak of 2.84 million returns in 1986 to a low of 1.82 million in 2020 but has increase the last 3 years back up to 2.47 million in 2023. However, C corporations in Montana, and around the country, vary greatly in size. There are large or very large businesses, which engage in operations across many states and even countries, but there are also smaller firms that engage in agricultural operations, are Main Street businesses, or are regional operations. Some of these corporations may have been incorporated before the S corporation structure was available. Others may have been incorporated as C corporations to be better positioned to access capital markets, or for other advantages that a C corporation status provides.

The number of businesses filed as S corporations has grown very rapidly during the last four decades, from 545,000 returns in 1980 to over 5.88 million returns in 2023. Partnerships have also grown significantly, from 1.38 million in 1980 to 5.12 million in 2023.

Over time, Congress has modified the rules governing pass-through entities, particularly S corporations, making those business structures more attractive for business purposes. For example, the number of permitted shareholders has been expanded from the original 10 in 1958, to 35 in 1982, 75 in 1996, and 100 in 2004, where it remains today.

If the business owner has a farm or ranch operation that is operated as a sole proprietorship, the taxpayer reports his or her income on the farm income or (loss) line of the state individual income tax form and attaches a copy of their federal Schedule F, as filed with their federal form. The total number of farms in the United States filing Schedule F has declined from 2.6 million in 1980 to 1.72 million in 2021. However, it should be noted that farms can also operate as partnerships or be incorporated as S or C corporations. Over the same period, the number of non-farm sole proprietorships has grown substantially, from 9 million in 1980 to over 29.3 million in 2021.

Ownership, Income, Deductions, and Credits Reported on Montana Pass-Through Returns

Pass-through entities include:

- Partnerships
- S corporations
- Limited Liability Companies (LLCs)
- Real Estate Investment Trusts (REITs)
- Regulated Investment Trusts (RITs), better known as mutual funds

Partnerships are an old, familiar business entity, but S corporations are less well known. The S corporation rules were enacted in 1958; they permit a corporation and its shareholders to elect to be taxed at one level.

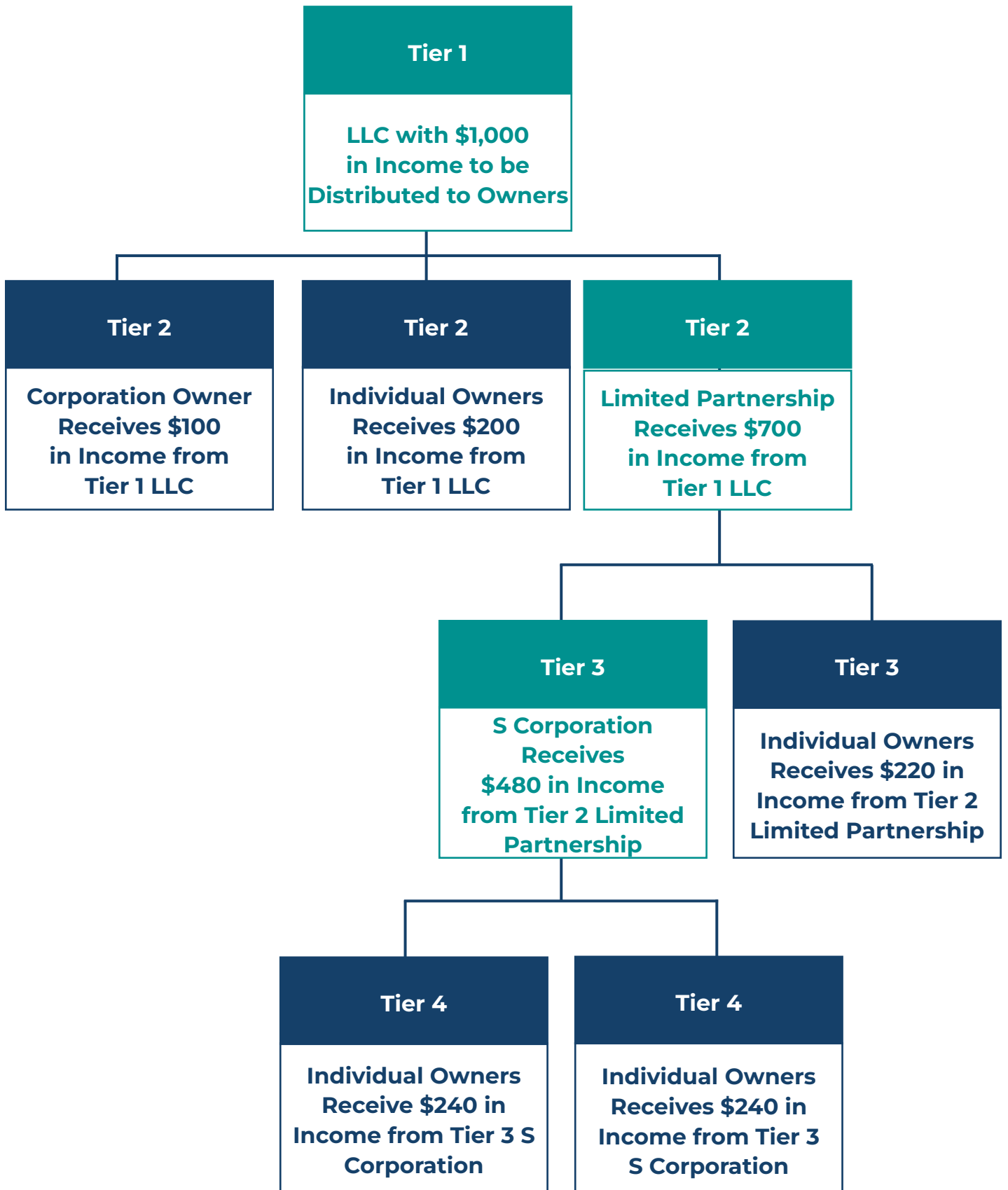
The most common type of pass-through entity today is the Limited Liability Company, or LLC. LLCs were created at the state level because state law generally governs business structure. The first LLC statute was enacted in Wyoming in 1977; all states and the District of Columbia now have LLC statutes. However, for federal tax purposes, federal law governs the tax treatment (states generally follow the federal treatment). For taxation purposes, LLCs are generally treated as partnerships, although LLCs with two or more members can elect to be treated as a C corporation or S corporation.

Any single member LLC can elect to be treated as a sole proprietorship if the single member is an individual. If the single member is a corporation, the LLC is treated as a division of the corporation by the IRS. The taxpayer's state filing status must be consistent with its federal filing status: if a business filed as an S corporation at the federal level, it must also file as an S corporation at the state level.

A pass-through entity's income is not taxed. Instead, its income and expenses are reported on the tax returns of the owners. The owners can be corporations, individuals, other pass-through entities, or a mix of all of them. When pass-through entities are owned by other pass-through entities, a tiered business structure is created.

Tiered business structures add complexity to tax administration because the taxpayer may be quite removed from the entity doing business in the state. Because pass-through entities can have a corporation, an individual, a trust, and/or another pass-through entity as a partner, owner, or shareholder, these entities represent a challenge for tax administration. Figure 3.6 below shows how complex ownership, or partnership, relationships can become.

Figure 3.6 Sample Tiered Structure of a Pass-through Entity



Pass-through entities classified as S corporations or partnerships with Montana source income are required to file an information return each year. A pass-through entity must determine what type of owners it has. If the owner is another pass-through entity, a nonresident individual, a nonresident trust, or a foreign C corporation, the pass-through entity must withhold on their distributive share of income. When they file their returns, these owners can claim this withholding as a payment. The withholding is not required if the owner elects to pay composite tax, which also waives the owner's filing requirement in Montana.

The withholding is not required either if the owner obtains a waiver. To obtain a waiver, the owner must qualify and make a separate request. Only non-resident individuals, estates and trusts, and domestic second tier pass-through entities qualify for a waiver. A domestic second-tier pass-through entity is an entity entirely owned directly and indirectly by resident or domestic owners. The waiver requires the owner to file a timely Montana return, pay taxes, and be subject to the personal jurisdiction of the state with respect to the income from a pass-through entity.

If the agreement is subsequently not met, the pass-through entity must, in all subsequent tax years, withhold the appropriate amount and remit the tax payment directly to the state. The pass-through information returns must show the total amounts of various types of income, deductions, and credits allocated to the owners.

Pass-through entities operating in more than one state must apportion part of their income to Montana using the same apportionment formula as a C corporation. Pass-through returns must show the Montana source income that was allocated to each owner and indicate whether each owner is considered an individual or another business entity.

Owners of pass-through entities taxed as partnerships may be either individuals or business entities. Shares of S corporations can only be owned by individuals, electing small business trusts, or employee stock ownership plans. However, some types of pass-through entities that are owned by other business entities can elect to be treated as S corporations for tax purposes. The table below breaks out the number of owners reported on the 75,982 Montana Tax Year 2022 pass-through returns by resident and nonresident.

Table 3.22 Shares of Pass-Through Owners by Residency Status

Type of Owner	Number	%
Resident Individuals	99,406	16%
Nonresident Individuals	352,529	56%
Montana Business Entities	6,485	1%
Non-Montana Business Entities	166,640	27%
Total	625,060	100%

Overall, individuals comprised 72 percent of the owners associated with Montana’s pass-throughs, a very slight increase from the 71 percent in 2020.

Table 3.23 on the next page shows the number of owners, by resident and non-resident, reported on the 75,982 Montana Tax Year 2022 pass-through returns split out into S Corporations and Partnerships.

Table 3.23 Montana Pass-Through Owners by Residency Status and Pass-through Type

Type of Owner	S Corporations				Partnerships			
	Montana		Multi-State		Montana		Multi-State	
	Owners	%	Owners	%	Owners	%	Owners	%
Resident Individuals	42,755	90%	2,317	7%	51,127	59%	3,207	1%
Nonresident Individuals	3,833	8%	28,890	81%	21,898	25%	297,908	65%
Montana Business Entities	424	1%	72	0%	5,187	6%	802	0%
Non-Montana Business Entities	275	1%	4,190	12%	8,807	10%	153,368	34%
Total	47,287	100%	35,469	100%	87,019	100%	455,285	100%

Table 3.24 shows the number of returns, types of income, Montana adjustments to income, and deductions that were reported on Tax Year 2022 pass-through returns.

Table 3.24 Montana-Source Income Passed Through to Owners – Tax Year 2022

	S Corporations		Partnerships	
	Montana	Multi-State	Montana	Multi-State
Returns	28,651	9,099	26,272	11,552
Income				
Salaries and Other Fixed Payments to Owners	\$183,909	\$117,527	\$165,408,220	\$76,434,571
Ordinary Business Income	\$2,947,989,134	\$1,556,355,378	\$558,025,902	\$1,668,067,524
Rental Income				
Real Estate	\$42,461,361	\$25,639,630	\$75,866,075	-\$21,071,320
Other	\$7,715,348	\$46,507,809	\$23,983,792	-\$24,052,141
Interest	\$26,269,688	\$19,337,882	\$47,682,430	\$60,092,603
Dividends	\$13,447,063	\$14,525,608	\$27,259,584	\$16,392,282
Royalties	\$14,294,630	\$14,269,115	\$42,667,908	\$161,988,854
Capital Gains	\$313,062,490	\$58,520,557	\$269,066,593	\$191,056,701
Gains Taxed as Ordinary Income	\$312,552,720	\$216,811,353	\$666,175,641	\$350,324,051
Other Income	\$22,538,805	\$35,932,265	\$24,218,264	\$258,632,836
Total Gross Income	\$3,700,515,148	\$1,988,017,124	\$1,900,354,409	\$2,737,865,961
Montana Additions to Federal Income	\$521,740	\$13,230,710	\$5,138,830	\$28,631,227
Montana Subtractions from Federal Income	\$27,338,319	\$2,346,365	\$6,899,758	\$10,901,679
Deductions				
§179 Expense Deduction	\$91,927,116	\$25,503,128	\$30,871,578	\$3,917,099
Other Expense Deductions	\$56,595,500	\$56,970,373	\$215,451,858	\$599,889,575
Total Deductions	\$148,522,616	\$82,473,501	\$246,323,436	\$603,806,674
Total Net Montana Source Income	\$3,525,175,953	\$1,916,427,968	\$1,652,270,045	\$2,151,788,835

When there is tiered ownership, meaning one pass-through entity is a full or part owner of another, both entities will include the income the first-tier entity allocates to the second-tier entity in their returns. Because of this, the combined Montana source income of pass-through entities in the state is less than the combined amounts reported on the returns. Table 3.25 below shows the Montana source income reported on pass-through returns and the source income after second-tier entity income is removed for Tax Years 2018 through 2022.

Table 3.25 Montana Source Income Before and After Second-Tier Income is Removed

Tax Year	Montana Source Income	Tier 2 Income	Net Montana Source Income
2018	\$4,024,862,213	\$1,058,422,949	\$2,966,439,264
2019	\$5,827,955,574	\$2,228,335,690	\$3,599,619,884
2020	\$5,669,967,534	\$1,250,898,708	\$4,419,068,826
2021	\$9,159,383,788	\$2,349,098,529	\$6,810,285,259
2022	\$9,287,207,149	\$2,705,481,365	\$6,581,725,784

Optional Pass-Through Entity Tax (PTET) and Credit

The 2023 Montana Legislature enacted the pass-through entity tax (PTET) through the passage of SB 554. The PTET is an optional tax that a pass-through entity can elect to pay at the entity level on behalf of both resident and non-resident owners. Any pass-through entity may elect to pay this PTET on the distributive share of Montana source income allocated to residents and non-residents. For nonresident owners, the PTET overrides the current withholding system and composite tax requirements. The optional PTET incorporates characteristic of both the withholding tax and composite tax. It can be claimed as a refundable credit on the owner's return or be in lieu of the nonresident owner's return.

Paying the PTET at the entity level allows the owners to not have to pay it at the individual level and therefore it does not count against the \$10,000 limitation on individual's deduction of state and local taxes (SALT) at the federal level. This results in a decrease in federal tax liability for many pass-through entity owners. This SALT deduction workaround has been implemented by many other states and has been allowed by the IRS through Notice 2020-75. Payments for the PTET are made as quarterly estimated payments and then the pass-through owners are issued a refundable credit for their share of the PTET that they may claim on their individual return. This makes the PTET theoretically revenue neutral, because the payment amounts from the entities are canceled out by the credits issued to the individual owners, but the timing of the payments versus refunds creates a positive revenue impact in the short term.

The PTET went into effect for Tax Year 2023 so it does not show up on the tax return data included in this report, through TY 2022. The revenue increase from these PTET payments is a part of the fiscal year 2024 collection data and the impact of the PTET credits and refunds will begin becoming more apparent in Fiscal Year 2025.

Pass-Through Entity Tax Credits

When a pass-through entity does something that is eligible for a tax credit, the credit is usually allocated to the owners. Owners can then claim their share of the credit on their tax returns. These tax credits are passed through and claimed on individual and corporate income tax returns and the credit amounts are shown in each of those respective subsections in this chapter. Data on the specific credits claimed by pass-throughs to be passed through to owners is no longer available on pass-through entity returns due to a change in the form for Tax Year 2022.

Pass-through Distributions by Industry

When preparing an informational tax return, pass-through entities are expected to provide information on the type of industry work the pass-through is engaged in. Table 3.26 provides a list of the Montana source income that was distributed by Montana's S corporations in Tax Year 2022, broken down by industry sector type. As this table shows, there is a significant amount of variation in the amount of income S corporations provided to their respective owners at the industry level. S corporations in the Professional and Business Services sector generated the largest amount of combined Montana source income for their owners, distributing approximately \$1.3 billion in Tax Year 2022.

The Trade, Transportation, & Utilities sector and the Construction sector also provided a significant amount of income to their owners, passing through \$1.1 billion and \$946 million in income, respectively.

Table 3.26 Montana-Source Income Passed Through to Owners - S Corporations - Tax Year 2022 (Thousands of Dollars)

S Corporations											
	Natural Resources & Mining	Construction	Manufacturing	Trade, Transportation & Utilities	Information	Financial Activities	Professional & Business Services	Education & Health Services	Leisure & Hospitality	Other Services	Unknown/Public Admin
Returns	3,286	7,340	1,446	5,040	443	5,229	7,383	2,535	2,834	2,024	190
Income Items											
Salaries and Other Fixed Payments to Owners	\$0	\$0	\$0	\$69	\$0	\$209	\$1	\$0	\$0	\$23	\$0
Ordinary Business Income	\$258,181	\$890,183	\$235,500	\$960,765	\$65,649	\$408,347	\$997,915	\$357,149	\$215,786	\$110,717	\$4,151
Rental Income											
Real Estate	\$13,227	\$627	\$532	\$7,471	\$46	\$39,912	\$1,870	\$316	\$3,852	\$274	-\$26
Other	\$9,812	\$983	\$30,117	\$14,854	\$32	-\$2,499	\$708	\$116	\$11	\$89	\$0
Interest	\$5,497	\$5,983	\$2,776	\$11,736	\$281	\$6,549	\$5,737	\$2,557	\$3,588	\$771	\$131
Dividends	\$2,742	\$2,769	\$9,241	\$4,858	\$321	\$3,625	\$2,346	\$412	\$589	\$1,070	\$0
Royalties	\$21,615	\$738	\$287	\$565	\$461	\$3,321	\$458	\$445	\$624	\$39	\$10
Capital Gains	\$27,904	\$13,958	\$6,294	\$62,731	\$22,680	\$38,320	\$139,224	\$15,816	\$34,897	\$2,566	\$7,194
Gains Taxed as Ordinary Income	\$152,213	\$31,132	\$29,137	\$34,028	\$1,012	\$61,540	\$163,195	\$24,206	\$19,420	\$13,463	\$18
Other Income	\$2,194	-\$332	\$16,759	\$15,949	\$20,280	-\$150	\$1,178	\$14	\$1,739	\$839	\$0
Total Gross Income	\$493,386	\$946,042	\$330,644	\$1,113,025	\$110,762	\$559,174	\$1,312,632	\$401,031	\$280,508	\$129,849	\$11,478
Montana Additions to Federal Income											
Total	\$338	\$2,615	\$1,327	\$2,774	\$231	\$1,737	\$3,123	\$891	\$654	\$19	\$43
Montana Subtractions from Federal Income											
Total	\$6,324	\$842	\$1,380	\$2,308	\$41	\$546	\$12,659	\$731	\$4,674	\$64	\$114
Deductions											
§179 Expense Deduction	\$22,069	\$39,792	\$2,700	\$21,357	\$183	\$7,237	\$9,639	\$3,642	\$6,280	\$4,225	\$307
Other Expense Deductions	\$48,514	\$12,167	\$2,769	\$17,196	\$238	\$7,890	\$15,275	\$4,217	\$3,379	\$1,796	\$126
Total Deductions	\$70,582	\$51,959	\$5,469	\$38,553	\$421	\$15,126	\$24,914	\$7,859	\$9,659	\$6,021	\$433
Total Net Montana Source Income	\$416,817	\$895,857	\$325,122	\$1,074,938	\$110,531	\$545,239	\$1,278,181	\$393,332	\$266,829	\$123,783	\$10,974

Contact the department at (406) 444-6900 for a large-print copy of this table.

As Table 3.27 shows, the amount of pass-through income also varies significantly for Montana's pass-through partnerships. In Tax Year 2022, Financial Activity partnerships generated more than \$2.1 billion in income within Montana; this is more than four times the income generated by any other partnership sector. Unlike S corporations, one partnership pass-through sector reported negative pass-through income for their owners. The Manufacturing sector partnerships as a whole reported a loss of almost \$261 million for Tax Year 2022.

Table 3.27 Montana-Source Income Passed Through to Owners - Partnerships - Tax Year 2022 (Thousands of Dollars)

	Partnerships										
	Natural Resources & Mining	Construction	Manufacturing	Trade, Transportation & Utilities	Information	Financial Activities	Professional & Business Services	Education & Health Services	Leisure & Hospitality	Other Services	Unknown/Public Admin
Returns	4,235	1,713	727	2,188	371	21,883	3,160	656	1,805	824	262
Income Items											
Salaries and Other Fixed Payments to Owners	\$16,889	\$26,865	\$12,275	\$18,382	\$4,052	\$50,592	\$49,070	\$46,297	\$10,210	\$6,802	\$409
Ordinary Business Income	\$211,782	\$148,593	-\$250,430	\$393,927	\$335,455	\$525,497	\$670,733	\$179,017	-\$15,060	\$26,244	\$335
Rental Income											
Real Estate	\$19,618	-\$555	\$870	-\$4,284	-\$85	\$36,491	\$1,045	\$1,233	-\$302	\$682	\$81
Other	\$5,226	-\$877	\$248	-\$2,120	\$3,772	-\$223	-\$6,539	\$13	\$710	-\$245	-\$33
Interest	\$3,971	\$2,063	\$1,397	\$6,380	\$4,839	\$64,495	\$17,697	\$3,089	\$2,733	\$1,098	\$12
Dividends	\$1,546	\$66	\$327	\$3,275	\$59	\$26,485	\$9,091	\$462	\$513	\$1,796	\$32
Royalties	\$148,874	\$695	\$5,022	\$97	\$250	\$41,481	\$5,204	\$813	\$117	\$2,011	\$93
Capital Gains	\$36,779	\$9,277	-\$32,073	\$5,762	\$1,326	\$380,917	\$34,634	\$1,941	\$15,970	\$1,871	\$3,720
Gains Taxed as Ordinary Income	\$98,794	\$21,259	\$1,458	\$53,281	-\$976	\$729,169	\$38,675	\$285	\$54,224	\$14,204	\$6,128
Other Income	-\$906	\$1,570	\$256	\$11,722	-\$126	\$262,219	\$3,703	\$85	\$4,230	\$5	\$93
Total Gross Income	\$542,573	\$208,955	-\$260,650	\$486,422	\$348,567	\$2,117,124	\$823,312	\$233,236	\$73,344	\$54,468	\$10,869
Montana Additions to Federal Income											
Total	\$1,206	\$8,991	\$1,955	\$3,923	\$2,832	\$8,201	\$4,420	\$97	\$851	\$1,279	\$15
Montana Subtractions from Federal Income											
Total	\$2,527	\$1,661	\$884	\$177	\$77	\$3,831	\$5,704	\$664	\$2,259	\$23	-\$5
Deductions											
\$179 Expense Deduction	\$18,481	\$3,554	\$1,915	\$2,581	\$44	\$4,660	\$1,123	\$1,095	\$1,011	\$269	\$55
Other Expense Deductions	\$255,392	\$4,044	\$10,498	\$169,558	\$16,785	\$215,065	\$105,346	\$12,993	\$20,844	\$4,004	\$812
Total Deductions	\$273,872	\$7,599	\$12,414	\$172,140	\$16,829	\$219,725	\$106,470	\$14,088	\$21,855	\$4,272	\$866
Total Net Montana Source Income	\$267,380	\$208,686	-\$271,992	\$318,028	\$334,493	\$1,901,768	\$715,559	\$218,581	\$50,081	\$51,452	\$10,023

Contact the department at (406) 444-6900 for a large-print copy of this table.

Table 3.28 Pass-through Entities by Size - Number of Owners - Tax Year 2022

Number of Reported Owners	S Corporations				Partnerships			
	Montana		Multi-State		Montana		Multi-State	
	Number	%	Number	%	Number	%	Number	%
1	16,819	58.6%	3,916	42.9%	71	0.3%	25	0.2%
2 to 3	10,457	36.4%	3,234	35.4%	20,988	79.7%	4,955	42.8%
4 to 8	1,266	4.4%	1,323	14.5%	4,396	16.7%	2,751	23.8%
9 to 20	124	0.4%	413	4.5%	619	2.4%	1,363	11.8%
Over 20	24	0.1%	250	2.7%	263	1.0%	2,479	21.4%
Total	28,690	100.0%	9,136	100.0%	26,337	100.0%	11,573	100.0%

Pass-through entities can vary greatly in size. Approximately 55 percent of S corporation pass-throughs reported a single owner, while 68 percent of partnership pass-through entities with Montana source income had two or three owners. Overall, pass-throughs that operate in multiple states tend to have more owners than pass-throughs that only operate in Montana. Among S corporations, about 5 percent of pass-throughs only operating in Montana in Tax Year 2022 had more than three reported owners, while almost 22 percent of multi-state S corporations had at least four owners. During this same time, about 33 percent of Montana's multi-state partnership pass-throughs had more than eight owners, while only 3.4 percent of Montana-only partnerships reported having at least nine owners.

Table 3.29 Pass-through Entities by Size - Montana Source Income - Tax Year 2022

Montana - Source Income	S Corporations				Partnerships			
	Montana		Multi-State		Montana		Multi-State	
	Number	%	Number	%	Number	%	Number	%
\$0 or Negative	8,282	28.8%	3,691	40.3%	11,909	45.1%	5,739	49.4%
\$1 to \$10,000	3,046	10.6%	2,645	28.8%	3,753	14.2%	2,877	24.8%
\$10,001 to \$100,000	10,660	37.0%	1,780	19.4%	6,891	26.1%	1,757	15.1%
\$100,001 to \$1,000,000	6,262	21.8%	860	9.4%	3,338	12.6%	966	8.3%
\$1,000,001 to \$5,000,000	467	1.6%	147	1.6%	448	1.7%	188	1.6%
Over \$5,000,000	69	0.2%	47	0.5%	80	0.3%	80	0.7%
Total	28,786	100.0%	9,170	100.0%	26,419	100.0%	11,607	100.0%

As Table 3.29 shows, almost 12,000 S corporations and 18,000 partnerships reported zero, or negative, Montana source income on their returns. And while S corporations and partnerships tend to be used as business structures for smaller businesses, there are some partnerships and S corporations that have a substantial Montana source income of more than \$5 million. One hundred sixteen S corporations and 160 partnerships reported more than \$5 million in Montana source income.

Table 3.30 shows Montana source income reported by pass-through entities for the same groups provided in the previous table. Most of the income generated by pass-through entities came from entities with over \$5 million in Montana source income. For S corporation pass-throughs, entities with over \$5 million in Montana source income generated approximately \$1.6 billion in Tax Year 2022, 35 percent of all Montana source income generated by Montana’s S corporation pass-throughs. Partnership pass-throughs with over \$5 million in Montana source income generated \$3.6 billion in Montana Tax Year 2022 source income.

Table 3.30 Montana Source Income for Pass-through Entities by size

Montana - Source Income	S Corporations				Partnerships			
	Montana		Multi-State		Montana		Multi-State	
	\$ million	%	\$ million	%	\$ million	%	\$ million	%
\$0 or Negative	-\$599	-17.5%	-\$111	-9.0%	-\$2,356	-159.3%	-\$859	-45.2%
\$1 to \$10,000	\$13	0.4%	\$7	0.6%	\$15	1.0%	\$7	0.4%
\$10,001 to \$100,000	\$470	13.8%	\$66	5.4%	\$271	18.3%	\$68	3.6%
\$100,001 to \$1,000,000	\$1,687	49.4%	\$273	22.2%	\$964	65.2%	\$302	15.9%
\$1,000,001 to \$5,000,000	\$904	26.4%	\$301	24.4%	\$913	61.7%	\$414	21.8%
Over \$5,000,000	\$942	27.6%	\$696	56.5%	\$1,672	113.0%	\$1,969	103.6%
Total	\$3,418	100.0%	\$1,232	100.0%	\$1,479	100.0%	\$1,901	100.0%

Estates and Trusts

Taxation of Estates and Trusts

Estates and trusts are legal arrangements where one party holds assets on behalf of or for the benefit of one or more other parties. The details of these legal arrangements can vary widely depending on the purpose of the estate or trust, and because of the variations in the laws of the states in which they were created.

A trust generally is managed by one or more trustees. The estate of a decedent is managed by an executor. The manager of a bankruptcy estate is called a trustee or a debtor in possession, depending on whether the estate is created under Chapter 7 or Chapter 11 of the federal bankruptcy code. Managers of trusts and estates are referred to as fiduciaries because of their fiduciary duty to act in the interest of another party, rather than in their own interest.

When an estate or trust earns income, it may distribute part of or all income to one or more beneficiaries; it may keep all or part of the income. Beneficiaries are taxed on income distributed to them, while the estate or trust is taxed on income it retains.

A trust may also distribute part of the principal to one or more beneficiaries. All estates and many trusts are created with the intention of ultimately distributing all their assets. Distributions from the principal of an estate or trust are not taxable.

Montana taxes the income of a trust or estate as if the trust or estate were an individual, with an exception allowing a trust or estate to take a deduction for income distributed to beneficiaries. Some trusts are created to provide funds for charity and estates, so trusts are also allowed a deduction for charitable contributions.

Estates and trusts may file on a tax year that is different from the calendar year. In this section, information is reported based on the calendar year when the estate or trust's tax year started. Tax years numbered 2022 may have ended any time between December 31, 2022, and December 30, 2023. Returns are due by the 15th day of the fourth month after the end of the tax year, but the estate or trust may receive a six-month filing extension. Thus, 2022 is the most recent tax year for which all returns had been filed and processed as of this report's publication.

Types of Estates and Trusts

The fiduciary must indicate on the Montana return which type of 11 types of estate or trust it is. The following table shows the number of returns in each category for Tax Years 2021 and 2022.

Table 3.31 Number of Estate and Trust Returns

	2021	2022
Simple Trust	2,150	2,197
Complex Trust	5,139	5,351
Decedent's Estate	1,095	1,124
Grantor Trust	997	1,013
Electing Small Business Trust	23	14
Qualified Disability Trust	122	123
Bankruptcy Estate (Chapter 7)	*	*
Bankruptcy Estate (Chapter 11)	*	*
Qualified Funeral Trust	5,090	5,009
Pooled Income Fund	*	*
Other	357	239
Total	14,983	15,078

* Not disclosed due to confidentiality concerns

A simple trust is a trust where:

- all income is to be distributed to the beneficiaries
- no income is to be used for charitable purposes
- none of the principal is to be distributed

A complex trust is a trust that does not qualify as a simple trust and does not fall into one of the other categories. A decedent's estate is charged with distributing assets in accordance with the decedent's will or state law and preserving assets until they are distributed.

A grantor trust is a trust where the person who created the trust retains control of or an ownership interest in the trust's assets. For both federal and Montana taxes, a grantor trust is treated as a disregarded entity: its income is treated as belonging to the grantor and its income and deduction line items should be reported on the grantor's tax return.

An electing small business trust is a trust that holds shares in an S corporation and for which the trustee has made an election to be taxed under a different section of federal law than generally applies to trusts. Montana taxes for electing small business trusts are the same as other trusts.

A qualified disability trust is a trust whose beneficiaries are one or more disabled persons under the age of 65.

A bankruptcy estate holds the assets of a bankrupt individual or business and is charged either with liquidating those assets to repay debts (Chapter 7) or with reorganizing the business (Chapter 11). A qualified funeral trust is a type of grantor trust set up to pay the beneficiary's funeral expenses. A pooled income fund is an arrangement where individuals or businesses donate assets to a charity with the provision that the donor is to receive all or part of the earnings from the assets for a fixed period or for life.

Income of Estates and Trusts

Montana law considers a trust to be a resident trust if the trust has sufficient connection to Montana. This includes having the trust having its primary place of administration in Montana, property in Montana, and beneficiaries located in Montana. A trust is classified as a part-year resident trust if sufficient connection with the state has ceased during a year. A trust or estate that is created during a year has a short tax year but is still considered to be resident or non-resident.

All resident trust's income is taxable by Montana, but a trust with income sourced in another state may claim a credit against Montana tax for tax paid to the other state. Montana source income of a nonresident trust is taxable by Montana. As with a non-resident individual, a non-resident trust calculates tax on all its income and then multiplies this calculated tax by the share of its income that has a Montana source.

The following table shows the different types of income reported by trusts and estates. It separately shows income of resident estates and trusts, non-resident estates and trusts, part-year resident estates and trusts. For nonresident and part-year resident estates and trusts, the table shows the average nonresident / part-year resident ratio used in calculating their tax. This is the ratio of total Montana source income to total income from all sources.

Table 3.32 Income Reported on Estate and Trust Returns (\$ millions)

Type of Income	2022		2023	
	Resident	Nonresident and Part-Year	Resident	Nonresident and Part-Year
Interest	\$13.135	\$250.854	\$13.996	\$360.395
Dividends	\$68.788	\$478.787	\$92.931	\$501.603
Sole Proprietor Business Income	\$1.714	\$347.979	\$3.611	\$559.829
Pass-Through Business, Rents, Royalties	\$58.818	\$462.276	\$90.964	\$766.543
Gain or Loss on Asset Sales				
Taxed as Capital Gains	\$196.427	\$4,422.890	\$155.877	\$2,863.237
Taxed as Ordinary Income	-\$5.941	\$77.528	-\$1.103	\$189.454
Other	\$29.688	\$240.657	\$24.715	\$462.050
Total Income	\$362.628	\$6,280.972	\$380.990	\$5,703.111
Average Resident Ratio for Nonresident and Part-Year Resident Estates and Trusts		1.50%		2.06%

Deductions for Charitable Contributions and Distributions to Beneficiaries

Income earned by a trust or estate generally is put to one of four uses. It may be:

- used to pay costs of the trust
- donated to charity
- distributed to a beneficiary, or
- retained and added to the principal of the trust.

In calculating taxable income, an estate or trust is allowed an itemized deduction for charitable contributions in the same way an individual is. Unlike an individual, an estate or trust is allowed a deduction for income distributed to a beneficiary. An estate or trust may also distribute part of the principal, but this is not deductible for the trust or taxable for the beneficiary. The following table shows deductions for charitable contributions and for distributions to beneficiaries.

Table 3.33 Deductions for Charitable Contributions and Distributions to Beneficiaries

	2021		2022	
	Entities with Deduction	\$ million	Entities with Deduction	\$ million
Charitable Contributions				
Resident Estates and Trusts	211	\$7.592	237	\$10.570
Nonresident and Part-Year	595	\$303.334	597	\$300.669
Distributions from Income				
Resident Estates and Trusts	3,207	\$175.774	3,192	\$200.400
Nonresident and Part-Year	1,079	\$679.671	1,116	\$760.274

Tax Paid by Estates and Trusts

Trusts and estates directly paid about \$9.292 million in Tax Year 2021 and \$9.058 million in Tax Year 2022. The following table shows tax paid by type of trust or estate. Categories with few returns are combined to protect taxpayer confidentiality.

Table 3.34 Tax After Capital Gains Credit and Apportionment (\$ millions)

Entity Type	2021	2022
Bankruptcy Estates	\$0.002	\$0.002
Decedent Estates		
Resident	\$0.289	\$0.261
Nonresident and Part-Year	\$0.055	\$0.036
Electing Small Business Trusts		
Resident	\$0.000	\$0.000
Nonresident and Part-Year	\$0.000	\$0.000
Grantor Trusts	\$0.000	\$0.000
Simple Trusts		
Resident	\$0.909	\$1.108
Nonresident and Part-Year	\$0.301	\$0.088
Disability, Funeral, Pooled Income, and Other	\$0.105	\$0.055
Complex Trust Not in Another Category		
Resident	\$4.729	\$4.222
Nonresident and Part-Year	\$2.903	\$3.286
All Estates and Trusts	\$9.292	\$9.058

Corporate Income Tax Overview

Montana’s corporate income tax is a tax levied on C corporations for the “privilege of carrying on business in this state for the tax year in which the income was earned.” (15-31-101(3), MCA). A corporation includes:

- an association, joint-stock company, common-law trust, or business trust that does business in an organized capacity
- all other corporations, whether created, organized, or existing under and pursuant to the laws, agreements, or declarations of trust of any state, country or the United States; and
- any limited liability company, limited liability partnership, partnership or other entity that is treated as an association for federal income tax purposes and that is not a disregarded entity (15-31-101(1), MCA).

Every bank organized under the laws of the state of Montana, of any other state, or of the United States, and any savings and loan association organized under the laws of this state or of the United States, is also subject to the Montana corporate income tax (15-31-101(4), MCA).

Table 3.35 and Figure 3.7 below show total corporate income tax collections for Fiscal Years 2014 through 2024. As a rule, corporate income tax collection trends in Montana mirror the general national economy. Fiscal Years 2023 and 2024 corporate tax revenues were \$309.9 million and \$312.3 million, respectively. Corporate income taxes are deposited in the state general fund.

Table 3.35 Corporate Income Tax Collections

Fiscal Year	Total Revenue
2014	\$147,550,091
2015	\$172,731,561
2016	\$118,386,603
2017	\$125,991,635
2018	\$167,099,816
2019	\$186,535,598
2020	\$187,358,214
2021	\$266,517,177
2022	\$293,695,432
2023	\$309,897,622
2024	\$312,282,363

Figure 3.7

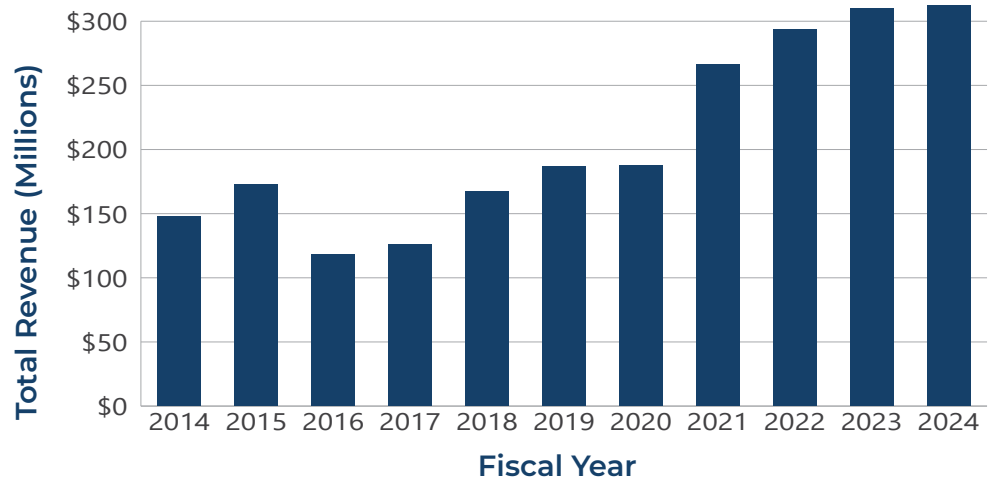


Table 3.36 below provides a breakdown of the last seven years of revenues deposited in the general fund by how they are collected. The table also shows refunds paid.

As the table demonstrates, estimated quarterly payments are by far the largest source of corporate income tax collections, followed by payments with returns.

Table 3.36 Corporate Income Tax Collections and Refunds - General Fund

Fiscal Year	Payments With Returns	Estimated Payments	Audits, Penalties, and Interest	Refunds	Total Collections
2018	\$42,743,886	\$129,097,865	\$26,779,392	-\$24,228,007	\$174,393,137
2019	\$50,422,525	\$137,292,282	\$15,050,080	-\$16,752,844	\$186,012,044
2020	\$50,251,684	\$145,585,206	\$10,871,377	-\$20,028,455	\$186,679,812
2021	\$78,705,971	\$202,062,821	\$11,861,827	-\$26,793,431	\$265,837,187
2022	\$67,156,276	\$224,188,974	\$22,166,050	-\$20,402,997	\$293,108,303
2023	\$67,983,439	\$250,579,986	\$19,972,693	-\$29,707,168	\$308,828,950
2024	\$95,411,937	\$236,431,673	\$14,738,291	-\$36,067,191	\$310,514,710
Average	\$64,667,960	\$189,319,829	\$17,348,530	-\$24,854,299	\$246,482,020

Average estimated payments over the past seven years were \$189.3 million. Average annual revenue for payments with returns over the same period was \$64.7 million. The seven-year average of revenue from audits, penalties, and interest was \$17.3 million. Total refunds averaged about \$24.9 million per year.

Over the past seven years, total corporate tax collections averaged about \$246.5 million annually, though there were wide variations in annual collections during that time period, with significantly higher collections the last two fiscal years.

Who pays Corporate Income Taxes?

Only C corporations pay corporate income taxes. Corporations that elect to file as a Subchapter S corporation for federal tax purposes are also required to file as a Subchapter S corporation for Montana income tax purposes. Despite the filing requirement, Subchapter S corporations do not pay Montana corporate income taxes. Instead, the owners or shareholders of the S corporation are subject to income tax on income flowed through the S corporation to the owner or shareholder. The owner or shareholder then reports any taxable income on their individual income tax form.

S corporations are discussed in more detail in the section on pass-through entities.

Organizations exempt from the tax include corporations or associations organized and operated exclusively for religious, charitable, scientific, or educational purposes, and whose income does not benefit any stockholder or individual.

Under federal law, unrelated business taxable income of exempt organizations that create more than \$100 of federal tax liability is taxable as corporate income, in the same manner as other taxable corporate income.

Other entities exempt from corporate income tax include:

- labor, agricultural or horticultural organizations
- civic organizations operated exclusively for the promotion of social welfare
- clubs or corporations organized and operated exclusively for pleasure, recreation or other nonprofit purposes and who do not have any income that benefits any private stockholder or member; and,
- similar nonprofit organizations

To be exempt from state corporation taxes, the corporation must prove it is compliant with all statutory conditions. Research and development (R&D) firms organized to engage in business for the first time in Montana do not have to pay the corporate income tax for the first five years of operation. To receive this exemption, the firm must apply to the Department of Revenue for approval.

Table 3.37 Number of C Corporation and S Corporation returns filed for Tax Years 2021 and 2022

	TY 2021	TY 2022
Regular C Corporations	21,982	20,554
S Corporations	72,476	75,982
Total Corporations	94,458	96,536
C Corporations Paying Minimum Tax*	14,920	12,979
C Corporations Paying More Than Minimum Tax	7,062	7,575
Total C Corporations	21,982	20,554

*Includes corporations filing a tax return, but claiming zero or negative taxable income.

Distribution of Corporate Income Taxes

Table 3.38 shows the Montana tax liability distribution of the 20,554 corporate returns with a Montana tax liability filed in calendar years 2023 and 2024, reporting on Tax Year 2022. Note that the revenues from the return data will not match the fiscal year revenues in earlier tables because fiscal year revenue is based upon payments.

Table 3.38 Tax Year 2022 Distribution of Montana Tax Liability

Regular Corporation Returns	Number	Tax Liability	Percent of Total Liability	Cumulative Percent of
Top 100 returns	100	\$189,972,720	60%	60%
Second 100 returns	100	\$33,579,518	11%	70%
Third 100 returns	100	\$19,478,811	6%	77%
Fourth 100 returns	100	\$13,449,079	4%	81%
Fifth 100 returns	100	\$9,693,845	3%	84%
All other returns	20,054	\$51,412,815	16%	100%
Total	20,554	\$317,586,788	100%	n/a

*Includes refunds as negative revenue.

The top 100 returns make up about 60 percent of total tax liability of all corporate taxpayers. The top 500 returns accounted for 84 percent of total Montana tax liability for the group. The other 20,054 returns represented only 16 percent of the total Montana tax liability.

The distribution of corporate income taxes can also be examined by economic sector. Starting with the 2009 tax returns, corporate taxpayers were asked to identify their primary industry as reported on their federal tax forms. Table 3.39 shows the distribution of corporate income taxes for the largest sectors.

The largest sector of Tax Year 2022 tax liability was the management of companies and enterprises. This category includes banks and other holding companies and corporate or regional headquarters; it accounted for about 30 percent of all the corporate income tax liability.

Manufacturing was the second largest sector, with 20 percent of all corporate income taxes in Tax Year 2022. This category includes:

- food manufacturing, including grain, oilseed, fruit, and dairy processing;
- bakeries;
- beverages;
- sawmills, millwork, and paper manufacturing;
- petroleum and chemical manufacturing;
- cement and concrete; and
- other activities.

Corporations primarily involved in finance and insurance paid 6.9 percent of corporate income taxes; retail trade paid 5.5 percent; wholesale trade paid 5.2 percent; and information paid 4.5 percent. All other sectors (including mining, quarrying, oil and gas extraction, transportation and warehousing, and construction) made up almost 6 percent. Over 4,000 corporations making up almost 13 percent of total tax liability did not report a NAICS code on their return.

Table 3.39 Distribution of Corporate Income Taxes by NAICS Sector

NAICS Sector	Number of Returns	Tax Liability	Percent of Tax Liability
Management of Companies and Enterprises	1,424	\$93,721,503	29.51%
Manufacturing	1,198	\$63,778,688	20.08%
Finance and Insurance	2,379	\$21,982,460	6.92%
Retail Trade	382	\$17,521,460	5.52%
Wholesale Trade	913	\$16,605,212	5.23%
Information	475	\$14,288,583	4.50%
Transportation and Warehousing	333	\$9,163,787	2.89%
Professional, Scientific, and Technical Services	2,417	\$8,376,273	2.64%
Agriculture, Forestry, Fishing and Hunting	2,359	\$6,810,865	2.14%
Real Estate and Rental and Leasing	1,454	\$6,376,868	2.01%
other(< 2% per sector)	7,220	\$18,016,806	5.67%
missing NAICS code	4,092	\$40,944,283	12.89%
Total	20,554	\$317,586,788	100.00%

In Table 3.39 above it is important to remember that only businesses organized as C corporations pay corporate income taxes. Businesses in certain industries, such as agriculture or legal services, may be more likely to be structured as a pass-through entity, rather than as a C corporation.

Taxable Income and the Tax Rate

The starting point for calculating Montana corporate income tax is the corporation's federal taxable income. To determine net income taxable by Montana, certain adjustments to federal taxable income must be made. For example, municipal bond interest is taxable and must be added to income. Montana also allows certain reductions to income, such as a portion of the cost of energy conservation investments made in a building used for the corporation's business.

After the additions and reductions to federal taxable income required by Montana law, income is then apportioned to Montana to determine the Montana taxable income.

If the corporation conducts taxable business only in Montana, all net taxable income from that business is Montana taxable income. Tax is then levied at a rate of 6.75 percent for net income earned in Montana

Multi-state C corporations and Pass-Through Entities with net taxable income generated by doing business both inside and outside the state are required to apportion income to Montana based on an apportionment formula. From July 1, 2021, to December 31, 2024, the apportionment formula has been double-weighted sales, where the receipts factor is weighted double relative to the property and payroll factors. Table 3.40 shows an example of how the double weighted sales apportionment factor is calculated.

Table 3.40 Example of Apportionment Factor Calculation for Multi-State Corporation

Payroll in Montana		Total Payroll		Payroll Factor
\$1,000,000	÷	\$10,000,000	=	0.100
Property In Montana		Total Property		Property Factor
\$2,000,000	÷	\$125,000,000	=	0.016
Receipts In Montana		Total Receipts		Receipts Factor
\$8,000,000	÷	\$100,000,000	=	0.080
Apportionment Factor (Avg.)				0.069

The payroll factor is the ratio of the payroll attributable to the production of business income during the tax period in Montana to total payroll.

Similarly, the property factor is based on the ratio of Montana property to all property, and the receipts factor is based on the ratio of Montana receipts to all receipts.

Once these three factors are calculated, the apportionment factor is calculated using the following formula:

$$\text{Apportionment factor} = (2 * \text{receipts factor} + \text{payroll factor} + \text{property factor}) / 4$$

The apportionment factor is applied against adjusted federal taxable income to produce the net income apportioned to Montana, or Montana taxable income.

The tax is normally levied at a rate of 6.75 percent on net income apportioned to Montana. Exceptions are explained on the next page.

The following is an example of how a multi-state corporation doing business in Montana would calculate its Montana source income using the double-weighted sales apportionment formula, assuming the following facts:

- The corporation has \$1 million in payroll in Montana, out of a total payroll of \$10 million.
- It has \$2 million in property in Montana, out of total property owned by the corporation of \$125 million.
- The corporation has receipts in Montana of \$8 million, out of total receipts for the firm of \$100 million during the tax year.

These factors result in an apportionment factor of 0.069 (see the calculations in the previous table).

If this corporation had a total taxable income of \$10 million, its Montana taxable income is \$690,000 (\$10 million x 0.069 = \$690,000) and its state income tax is \$46,575 before credits (\$690,000 x 6.75 percent).

Beginning January 1, 2025, the apportionment formula is moving to single sales factor, where the apportionment factor will just be the receipts factor, and payroll and property factors will no longer be relevant.

Beginning with Tax Year 2025, using single sales apportionment, this same corporation would have an apportionment factor of 0.08 (just the receipts factor). Therefore, the corporation's Montana taxable income would be \$800,000 and its state income tax would be \$54,000.

Relying on an apportionment formula simplifies the calculation of taxable income by state for the multi-state taxpayer and for the state tax administrator, but there can still be issues. A simple example is that of a multi-state taxpayer who over-apportions or shifts one or more of the factors—property, payroll or sales—to a state

that does not tax corporate income. Apportioning too much in sales or property or payroll to a non-income tax state reduces other states' apportionment factors and so reduces the income taxable in those states.

Montana operates as a worldwide, combined unitary state. A business is unitary when the operations of that business within the state depend on or contribute to the operations of that business outside the state. However, in Montana, corporations can elect to have primarily their United States income included in the apportionment process. Corporations taking this election, called a "water's edge" election, pay the tax at a rate of 7 percent instead of 6.75 percent. Some limits exist on exclusions claimed under the water's edge election (see 15-31-322 and 15-31-324, MCA).

Multinational unitary corporations wishing to file under the water's edge method are required to file a written election within the first 90 days of the tax period for which the election is to become effective. The Department of Revenue must approve the election before the corporation uses it and the election is then binding for three consecutive taxable periods.

Corporations whose only activity in Montana comprises making sales may choose to pay an alternative tax equal to $\frac{1}{2}$ of 1 percent of gross sales if they do not own or rent real estate or tangible personal property in Montana, and if their annual gross income from sales in Montana does not exceed \$100,000.

There is a minimum tax of \$50 for any corporation doing business in the state. If the corporation has no property, sales, or payroll in the state during the tax period, it is exempt from the minimum tax. In Tax Year 2022, 63 percent of corporations paid the minimum tax or less.

All states with a corporate income tax allow corporations a carryforward of net operating losses (NOL). These losses can be deducted against net taxable income in future years. Some states, including Montana, allow carryback of net operating losses.

Montana net operating losses of a corporation may be carried back for a period of three years and used to reduce prior years' taxable income. The losses may also be carried forward (for up to 10 years) to reduce taxable income in future years. Loss carrybacks may not exceed \$500,000 per tax period.

In Montana, if a corporation has net operating losses, it can file an amended return and claim a refund of previously paid taxes for any or all the prior three years, with the \$500,000 carryback limitation per tax period beginning in Tax Year 2018.

For example, a hypothetical Montana corporation had a net taxable income of \$50,000 each year in years 1, 2, and 3. In year 4, it had losses of \$160,000. In year 5, the corporation has become profitable again, with a taxable income of \$60,000. Based upon these assumptions, the corporation would have paid \$3,375 in corporate income taxes ($\$50,000 \times 0.0675$) in years 1, 2, and 3. In year 4, it had net losses of \$160,000, so it only paid the \$50 minimum corporate income tax. In year 4, the corporation could file amended returns for years 1, 2, and 3.

On the amended returns, the taxpayer could claim \$150,000 of year 4 losses against income earned in those prior years, and obtain refunds of taxes paid, or \$10,125 ($3 \times \$3,375$). The remaining \$10,000 of losses would be used as a deduction against year 5 income of \$60,000, thus reducing taxable income from \$60,000 to \$50,000, and reducing the corporation's tax liability by \$675.

Table 3.41 on the next page provides a comparison of Montana's treatment of net operating loss deductions with other states' treatment. Eighteen states follow the federal carryforward and carryback rules, which allow carryforward of 80 percent of losses indefinitely, but no carrybacks. Of the states that do not have federal conformity, 22 do not allow carryback of net operating losses, but allow limited carryforward of losses, from five years up to 20 years. Only five states allow net operating loss carrybacks. Idaho, Mississippi, and Missouri allow two years of carrybacks, while Montana and New York allow three years of carrybacks.

Table 3.41 Allowed Carryback and Carryforward Periods for Net Operating Loss for States not Conforming to Federal Provisions

	5 years forward	8 years forward	10 years forward	12 years forward	15 years forward	20 years forward
0 years back	Rhode Island	Arkansas	Kansas Michigan New Hampshire* Vermont	Illinois	Alabama Minnesota North Carolina Oregon Tennessee	Arizona Connecticut Indiana Iowa Louisiana Massachusetts Nebraska New Jersey Pennsylvania* Wisconsin
2 years back						Idaho* Mississippi Missouri
3 years back			Montana*			New York

*Carryback caps for Montana and Idaho. Carryforward caps for New Hampshire and Pennsylvania Source: State Tax Foundation (as of July 1, 2023)

Credits

As with individual income tax, corporations with expenditures that qualify under state law can claim tax credits. Tax credits are applied against the corporation’s tax liability, reducing the amount the corporation owes.

For example, a corporation with Montana taxable income of \$3,000 has a tax liability of \$202.50 (\$3,000 x 6.75 percent). However, if the corporation has expenditures that qualify under state law for a credit of \$150, its tax liability is reduced from \$202.50 to \$52.50.

Table 3.42 below lists the tax credits claimed by corporations for Tax Years 2021 and 2022. A number of tax credits were repealed for both individual and corporate taxpayers beginning with Tax Year 2022 as indicated in the table. Taxpayers are still able to carryforward and claim some of those repealed credits that were earned and not claimed in prior years. The credit amounts in this table are credits claimed for the given tax year not necessarily earned in that tax year.

Table 3.42 Montana Corporation Tax Credits

	Tax Year 2021		Tax Year 2022	
	Number of Credits	Total Credit Amounts	Number of Credits	Total Credit Amounts
Active Tax Credits				
Apprenticeship Tax Credit	*	\$47,350	13	\$66,868
Charitable Endowment Credit	*	19,176	*	\$47,526
Contractor's Gross Receipts Credit	59	\$656,167	55	\$1,340,768
Infrastructure Users Fee Credit	*	\$244,790	*	\$263,474
Historic Property Preservation Credit	*	\$50	*	\$88,638
Innovative Educational Program Credit	0	\$0	*	\$50,000
MEDIA credit	*	\$7,899,298	*	\$6,202,042
Recycling Credit	*	\$125,000	*	\$88,538
Student Scholarship Organization Credit	0	\$0	*	\$4,925
Trades Education and Training Tax Credit	0	\$0	0	\$0
Repealed Tax Credits as of TY 2022				
Alternative Energy Production Credit	*	\$50	*	\$75,229
College Contribution Credit*	16	\$5,227	0	\$0
Dependent Care Assistance Credit*	*	\$17,325	0	\$0
Geothermal Heating System Credit*	*	\$302	*	\$258
Alternative Fuel Motor Vehicle Conversion Credit*	*	\$1,100	0	\$0
Mineral Exploration Credit*	*	\$25	0	\$0
Qualified Research Credit	0	\$0	*	\$284,123
Total Credits	106	\$8,968,510	97	\$8,512,389

Some of the above credits were claimed on returns not yet audited by the department. The amount of credit claimed may change after these returns are audited. Additionally, some of the above numbers represent a carryback of credits claimed on amended returns received during the fiscal year. Credits claimed on less than 10 returns are indicated by an asterisk (*). Redacted numbers are not disclosed due to confidentiality concerns.

Filing Requirements and Estimated Payments

Unlike individual income taxpayers who must file their federal and state returns based upon a calendar year, corporate taxpayers must file tax returns based upon their fiscal year. Corporate income taxpayers must use the same tax period for their state return as they reported for their federal tax return.

As shown in table 3.43 in this section, three-fourths of corporate taxpayers (77 percent) have a fiscal year or tax year that is based upon the calendar year. Tax returns for taxpayers using a calendar year as their fiscal year are due May 15.

The second most used fiscal year or tax year is the 12 months ending at the end of June. About 4 percent of corporate taxpayers filing in Montana used a fiscal year ending on June 30th. Tax returns for taxpayers using another period as their fiscal year are due the 15th day of the fifth month after the close of the taxable year. In other words, if a taxpayer's fiscal year ends at the end of June, the tax return is then due November 15.

Automatic extensions are allowed for up to six months following the prescribed filing date.

For example, a taxpayer with a fiscal year or tax year that is also a calendar year can use the automatic extension, moving the due date of their return from May 15 to November 15. The taxpayer whose fiscal year is calendar year 2022 would have a Tax Year 2022 return due date of May 15, 2023, but the taxpayer would now have until November 15 to file under the automatic extension.

A taxpayer whose fiscal year or tax year ends June 30 can obtain an automatic six-month extension that moves the due date for its return from November 15 to May 15 of the following year. For the Tax Year 2022 return for a taxpayer whose fiscal year runs from July 1, 2022, to June 30, 2023, is due November 15, 2023. The taxpayer would then have until May 15, 2024, to file under automatic extension.

Companies with a tax liability of \$5,000 or more must make quarterly estimated payments. For a corporation operating with a calendar year as its fiscal year or tax year, the due dates for quarterly payments are April 15, June 15, September 15, and December 15. For a corporation using another

12-month period as its fiscal/tax year, the due dates for quarterly installments are the 15th day of the fourth month, the 15th day of the sixth month, the 15th day of the ninth month, and the 15th day of the 12th month.

Table 3.43 Corporate Income Tax - Tax Year 2022

Tax Year Period Ending	Number of Taxpayers	Percent
12/31/2022	15,774	77%
1/31/2023	436	2%
2/28/2023	207	1%
3/31/2023	774	4%
4/30/2023	185	1%
5/31/2023	180	1%
6/30/2023	850	4%
7/31/2023	162	1%
8/31/2023	178	1%
9/30/2023	691	3%
10/31/2023	711	3%
11/30/2023	406	2%
Total	20,554	100%

Penalties and Interest

Corporations that do not pay taxes when due may be charged a late payment penalty of 1.2 percent per month on the unpaid tax, up to a maximum penalty of 12 percent of the tax due.

Beginning July 1, 2019, the interest on unpaid tax accrues at a rate of 3 percentage points above the prime rate. For January 1, 2025, through December 31, 2025, the rate is 11 percent per year.

Comparison of Corporate Tax Rate with Other States

Forty-four states and the District of Columbia have a tax on corporate income. Table 3.44 in this section uses data from the Federation of Tax Administrators (as of January 2024) to show the maximum rates for states having a corporate tax. The rates vary from 2.5 percent to 9.8 percent. Many states have a graduated income tax, which is indicated by an asterisk next to the state's name.

This comparison table shows only the maximum rate for each state. The effective or average tax rate in different states can vary substantially, depending upon what the lower rates are and what income they apply to. State tax deductions, exemptions and credits, and other aspects of state taxation policy can substantially reduce the effective tax rate.

Nevada, Ohio, Texas, and Washington do not have corporate income taxes, but impose gross receipts taxes.

South Dakota and Wyoming do not have corporate income taxes or gross receipts taxes.

South Dakota has an excise tax on financial institutions, which starts at 6 percent on a net income of \$400 million or less. The percentage tax declines in steps on net income over that amount.

Wyoming does not have a corporate income tax but does have a corporate franchise tax or license tax of 0.02 percent which applies to the sum of capital, property, and assets located in Wyoming.

Montana's tax rate is 6.75 percent. Idaho's tax rate is 6.5 percent. North Dakota's top corporate income tax rate is 4.31 percent.

Table 3.44 Maximum Corporate Tax Rate by State

Rank	State	Maximum Tax Rate
1	Minnesota	9.80%
2	Illinois	9.50%
3	Alaska*	9.40%
4	New Jersey*	9.00%
5	Maine *	8.93%
6	California	8.84%
7	Delaware	8.70%
8	Vermont *	8.50%
9	Pennsylvania	8.49%
10	District of Columbia	8.25%
10	Maryland	8.25%
12	Massachusetts	8.00%
13	Wisconsin	7.90%
14	New Hampshire	7.60%
14	Oregon*	7.60%
16	Connecticut	7.50%
16	Louisiana *	7.50%
18	New York*	7.25%
19	Iowa*	7.10%
20	Rhode Island	7.00%
21	Montana	6.75%
22	Alabama	6.50%
22	Kansas*	6.50%
22	Tennessee	6.50%
22	West Virginia	6.50%
26	Hawaii *	6.40%
27	Michigan	6.00%
27	Virginia	6.00%
29	New Mexico*	5.90%
30	Nebraska *	5.84%
31	Idaho	5.80%
32	Georgia	5.75%
33	Florida	5.50%
34	Kentucky *	5.00%
34	Mississippi *	5.00%
34	South Carolina	5.00%
37	Arizona	4.90%
37	Indiana	4.90%
39	Arkansas *	4.80%
40	Utah	4.65%
41	Colorado	4.40%
42	North Dakota*	4.31%
43	Missouri	4.00%
43	Oklahoma	4.00%
45	North Carolina	2.50%

*Graduated income tax. As of Jan. 1, 2024, Tax Foundation

Select History of Montana's Corporate Income Tax

- 1917** Montana’s corporate license tax was established. The tax rate was set at 1 percent with no minimum tax amount.
- 1933** The corporate income tax rate was raised to 2 percent and established a minimum tax of \$5
- 1937** The rate was raised to 3 percent, while the minimum tax remained \$5.
- 1957** The rate was raised to 5 percent and the minimum tax increased to \$10.
- 1960 - 1971** The tax rate was changed several times between 1960 and 1971, while the minimum tax was increased from \$10 to \$50 during this time period.
- 1987** The state added the water’s edge election, which includes a tax rate of 7 percent for corporations that elect to file as water’s edge companies.
- 2013** The name of the corporate license tax was changed to corporate income tax. This change applied to tax years beginning after December 31, 2013.
- 2021** The apportionment formula was changed from an equal-weighted three-factor formula to a double-weighted sales three-factor formula.
- 2023** The apportionment formula is set to move to single sales for Tax Year 2025, where income is apportioned based solely on a corporation’s receipts factor. Tax Haven list repealed for corporations filing Water's Edge

Table 3.45 Corporate Income Tax - Historic Tax Rates and Minimum Tax

Year	Tax Rate	Minimum Tax	Water’s Edge
1987	6.75%	\$50	7%
1971	6.75%	\$50	-
1969	6.25%	\$50	-
1965	5.25%	\$10	-
1960	4.5%	\$10	-
1957	5%	\$10	-
1937	3%	\$5	-
1933	2%	\$5	-
1917	1%	-	-