

Montana Business Tax Guide



Public Contractor's 1% Gross Receipts Tax

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HELPFUL HINTS

Please keep these important tips in mind to successfully file your Contract Registration (CGR-1), Withholding Payment (CGR-2) and Application for Refund (CGR-3).

- Report the correct contract identifier when submitting your Contract Registration (CGR-1) and Withholding Returns (CGR-2). We track each separate contract by a contract identifier. This contract identifier may be a series of numbers, numbers and letters combined, or a short phrase, such as a description of the job. It is necessary that this contract identifier is correctly reported to us on all CGR-1, and CGR-2 submissions. It is important that all government entity, public entity, prime contractor, and subcontractors use this correct contract identifier too.

Report the same contract award date when submitting your Contract Registration (CGR-1) and Withholding Returns (CGR-2)

- When submitting CGR-1s and CGR-2s, the government entity, prime contractor and subcontractor all must use the same contract award date. This award date is the date originally reported on the CGR-1 filed when the contract was awarded.

Timely file your registrations (CGR-1s), payments, and allocations (CGR-2s) between a prime contractor and a subcontractor. This will help prevent delays in processing payments, allocations, refunds, and credits that might be filed by your subcontractor.

When filing your application for refund (CGR-3), remember that the refund applies only to personal property taxes and certain motor vehicle fees paid on property used in your construction business and that is located in Montana. You cannot claim a refund for real property taxes paid by your construction business.

- You are not entitled to a refund of your 1% contractor's gross receipts tax if you did not pay any personal property taxes in Montana or did not register any motor vehicle in Montana while working here. However, you can apply this tax as a credit against the corporate income taxes or individual income taxes that you owe.

GENERAL INFORMATION

What is Montana's public contractor's 1% gross receipts tax?

When a public construction contract is greater than \$80,000, the contractor or subcontractor is required to pay or have withheld from their earnings a gross receipts tax equal to 1% of the gross contract price of the project.

This 1% tax applies to payments made on federal, state, county, city, or other government-entity projects located in Montana. It does not apply to a contract to construct a federal research facility.

You must remit this tax to the Department of Revenue. The tax can be applied against your business personal property taxes and certain registration fees paid on your business vehicles for a refund or applied as a credit against the corporate income taxes or individual income taxes that you owe.

Who is subject to the Montana public contractor's 1% gross receipts tax?

The tax applies to a contractor or subcontractor working on a public construction project located in Montana where the original contract cost, value, or price is more than \$80,000, and the owner of the project is a public entity. A contract of \$80,000 or less is not subject to the contractor's 1% gross receipts tax.

A public construction project includes any work that requires the contractor to install, add, place, replace, or remove any equipment, parts, structures, or materials of any kind.

What is the contract cost, value, or price that determines if the contract is over or under \$80,000?

The contract cost, value, or price is the gross amount earned from all sources of the contract. It includes money, credits, or other valuable consideration received from the awarding government entity.

What if a contract change order increases the amount above \$80,000?

At any time, a contract cost, value, or price increase to greater than \$80,000, the contractor or subcontractor is required to pay or have withheld a gross receipts tax equal to 1% of the

gross contract price. The 1% gross receipts tax for payments made prior to the increase can be caught up on subsequent payments or allocations.

Who is required to pay and remit the 1% contractor's gross receipts tax?

The awarding public entity shall withhold and remit to DOR the 1% contractor's gross receipts tax on behalf of the prime contractor.

If the project requires a prime contractor to hire a subcontractor, the prime contractor shall withhold and allocate the gross receipts on behalf of the subcontractor.

If this tax is not withheld by the public entity, or the contract is with the federal government, the prime contractor is required to withhold and remit.

What are the steps to submit a Contract Award Registration (CGR-1)?

Within 10 days after a public contract has been awarded, a Contract Award Registration, CGR-1, shall be submitted for registering the contract. This registration is usually submitted by the awarding public entity but can be submitted by a prime contractor if the entity doesn't, such as in the case of a federal contract.

If the project requires a prime contractor to hire a subcontractor, the prime contractor shall register that sub-contract within 10 days of that sub-contract.

All Contract Award Registration (CGR-1s) should be submitted electronically on DOR's TransAction Portal (TAP), <https://tap.dor.mt.gov>.

What are the steps to submit a Gross Receipts Withholding Return (CGR-2)?

Within 30 days after the date of a payment to a contractor, a Withholding Return (CGR-2) shall be submitted, along with any payments, for withholding payments or allocations. In most cases, the awarding public entity submits the CGR-2 withholding return for the prime contractor and remits payment. If the awarding public entity does not withhold and remit this tax, the prime contractor is responsible for completing the CGR-2 for payments received, such as in the case of a federal contract.

If the project requires a prime contractor to hire a subcontractor, the prime contractor shall withhold and submit Withholding Return (CGR-2) on payments made to the subcontractor. The prime

contractor should allocate funds from payments made to the prime contractors account instead of remitting payments for the subcontractor.

All Gross Receipts Withholding Returns (CGR-2s) should be submitted electronically on DOR's TransAction Portal (TAP), <https://tap.dor.mt.gov>.

What are the steps if a Federal Government Contract has been awarded?

If you have a federal government contract, the federal government will not register a contract, CGR-1, or withhold, remit, or submit a Withholding Return (CGR-2) on payments made on that contract. In this case, the prime contractor is responsible for completing and filing the Registration (CGR-1) and Withholding Return (CGR-2) and for remitting this tax within 30 days after receiving payment from the federal government.

Where do I file my Contract Award Registration, CGR-1 and my Gross Receipts Withholding Return, CGR-2?

File online on DOR's TransAction Portal (TAP), <https://tap.dor.mt.gov>.

What happens if I'm late filing my Gross Receipts Withholding Return, CGR-2?

For CGR-2s reporting payments:

If you file the CGR-2 late, you will be assessed a late file penalty of \$50 or 5% or the amount of tax due monthly, whichever is greater, up to 25 % of the tax due.

For CGR-2s reporting allocations:

If you file the CGR-2 late, you will be assessed a late file penalty of 10% of the 1% tax.

What happens if my 1% contractor's gross receipts tax is paid late?

If you do not pay the full amount of your 1% contractor's gross receipts tax within 30 days after receiving payment for the project, you will be charged a late payment penalty. The penalty is 0.5% per month or fraction of a calendar month on the unpaid tax. The penalty cannot exceed 12% of the tax due.

If you do not pay your 1% contractor's gross receipts tax within 30 days after receiving payment for your project, you will also be charged interest at the rate of Prime plus 3% per year, accrued daily.

How do I amend a previously submitted Withholding Return (CGR-2)?

If your amendment is withholding/allocating more money on a payment, please submit an additional Withholding Return, CGR-2, through our TransAction Portal (TAP). Please only submit the additional amount, not the entire new amount.

If your amendment is to reduce the amount withheld/allocated, please "Send Us a Message" through the TransAction Portal. Please include the contract identifier, sub-contractor, and amount to amend. The department will reply to the message with questions or when the request has been completed.

To "Send Us a Message", click "More" under your CGR Account ID list of options. Then click on "Send Us a Message". In the subject, please put CGR-2 Amendment and then type your message. You will receive a message back in the TransAction Portal with any questions or when the request has been complete.

As a contractor or subcontractor, can I apply my 1% contractor's gross receipts tax withheld and paid as a credit on my income tax return, or can I request a refund of this tax for business personal property taxes and certain registration fees paid on business vehicles during the year?

Your 1% contractor's gross receipts tax that has been previously remitted to us can be used two different ways. You can use either of the two methods or a combination of both. These two methods are:

1. Request a refund of your tax by submitting a Refund Application (CGR-3).

You can apply your 1% contractor's gross receipts tax against the business personal property taxes and certain registration fees for vehicles used for the business during the calendar year. This refund applies only to business property owned by your construction business and not against business property you may own under another business.

2. Apply your 1% contractor's gross receipts tax as a credit against your personal or corporate income tax liability. The tax may not be used to offset a pass-through entity's tax liability resulting from a composite tax election, pass-through entity tax election, or pass-through withholding.

After applying for a refund described above, the remaining balance can be used as a credit against your individual income tax or corporate income tax liability. For more information on how to apply for the 1% contractor's gross receipts tax credit, refer to the instructions in the Montana forms listed below:

- Individual Income Tax (Form 2)
- Corporate Income Tax (Form CIT)
- S-Corporation Tax (Form PTE)
- Partnership Tax (Form PTE)

These instruction booklets can be downloaded from DOR's website at MTRevenue.gov.

I have applied for a refund and have offset my income tax liability with my 1% contractor's gross receipts tax. I still have a balance in my account. What can I do with the balance?

The amount of the tax that you can apply against your individual income or corporate income tax liability cannot be more than the liability itself. However, any excess credit that remains, after receiving a refund and offsetting your individual income or corporate income tax liability, can be used as a carry-forward for five succeeding years and applied against future individual income tax or corporate income tax liabilities.

This carryover amount can be applied only to your individual income or corporate income tax liability and cannot be carried forward and used to receive a refund of business personal property taxes or certain registration fees paid on business vehicles in future years.

PERSONAL PROPERTY TAX REFUND

I have paid business personal property taxes and motor vehicle fees to the State of Montana on vehicles used in my business. Can I receive a refund of these taxes and fees paid on my business?

Yes. A contractor can apply for a refund of any business personal property taxes paid or certain registration fees paid on motor vehicles located in Montana and used in the contractor's business. The amount of the refund is dollar-for-dollar on any personal property tax and motor vehicle fees paid in the calendar year in which the 1% contractor's

gross receipts tax was withheld and paid. Personal property taxes and motor vehicle fees paid in one calendar year cannot be used to apply for a refund of your 1% contractor's gross receipts tax withheld and paid in another calendar year.

How do I apply for the personal property tax refund?

Prime contractors or subcontractors may apply for a refund of personal property taxes or motor vehicle fees they incurred within a calendar year by completing the Application for Refund of Personal Property Taxes Paid (CGR-3).

This refund applies only to personal property taxes and motor vehicle fees incurred on vehicles used in the contractor's business. Property taxes and motor vehicle fees incurred on vehicles not used in your business or real property taxes paid cannot be used when claiming this refund.

When submitting the CGR-3, you are required to submit a copy of all paid personal property tax receipts and vehicle registration receipts. If these receipts include both real and personal property taxes paid, you are required to obtain a statement from your county treasurer which identifies the amount of tax paid on each type of property.

If you are applying for a refund for a previous calendar year and incurred personal property taxes and motor fees in that year but did not pay them in the same year, you are still eligible for a refund. In order to be eligible for a refund for a prior year, the personal property tax and motor vehicle fees need only to be incurred during the calendar year in which the withholding and payment of the 1% gross receipts tax occurred. However, before a refund can be issued, you are required to pay these taxes and fees and provide the necessary documentation of this payment.

All Refund Applications (CGR-3s) should be submitted electronically using DOR's TransAction Portal (TAP), <https://tap.dor.mt.gov>.

When applying for a refund of Montana motor vehicle taxes and fees paid on business vehicles, what taxes and fees listed on my motor vehicle registration form apply?

Only those taxes that are considered an ad valorem or personal property tax can be used in calculating your refund. In addition, you can include fees paid in lieu of tax on buses, trucks

with a gross vehicle weight over 1 ton, truck tractors, and the registration fee paid on light vehicles. Other fees, such as gross vehicle weight charges, salvage title fees, temporary registration permits, and specialty plate fees cannot be used in calculating your personal property tax refund.

The following is a list of fee descriptions used by the Montana Department of Justice, Motor Vehicle Division:

MERLIN System Fee Descriptions
County Option Tax
Light Vehicle Registration Fee
Permanent Light Vehicle Registration Fee
Truck Flat Fee In lieu of Tax

Where do I file my application for a refund of personal property taxes?

File online using DOR's TransAction Portal (TAP), <https://tap.dor.mt.gov>.

I have completed my application for a refund and have applied my 1% contractors' gross receipts tax previously paid to this refund. I still have a credit balance in my account; can I use the credit elsewhere?

Yes. The additional credit balance can be used as a credit on your individual income tax or corporate income tax returns.

INDIVIDUAL INCOME TAX CREDIT

My business is a sole proprietorship and I file a Montana individual income tax return (Form 2). I have completed my Montana individual income tax return and now I owe tax. Can I apply the amount of my 1% contractor's gross receipts tax previously paid as a credit against my individual income tax liability?

Yes. The 1% contractor's gross receipts tax that has been remitted to the state and withheld from a contractor can be used as a credit against your Montana individual income tax liability. This credit is allowed for the tax year that the net income from the contract subject to the 1% tax is earned and reported on your individual income tax return. If you report your income from the contract on a percentage of completion method, the contractor's 1% gross receipts tax is required to be allocated accordingly.

CORPORATE INCOME TAX CREDIT

My business is incorporated, and I file a Montana C Corporation income tax return (Form CIT). I have completed my Montana corporate income tax return and now I owe tax. Can I apply the amount of my 1% contractor's gross receipts tax previously paid as a credit against my corporate income tax liability?

Yes. The 1% contractor's gross receipts tax that has been remitted to the state and withheld from a contractor can be used as a credit against your Montana corporation income tax liability. This credit is allowed for the tax year that the net income from the contract subject to the 1% tax is earned and reported on your corporate income tax return. If you report your income from the contract on a percentage of completion method, the contractor's 1% gross receipts tax is required to be allocated accordingly.

S CORPORATION; PARTNERSHIP TAX CREDIT

My business is an S Corporation which files a Montana S Corporation (Form PTE). I have completed my Montana S Corporation return and have ordinary income passing through to my shareholders.

Can the 1% contractor's gross receipts tax paid on behalf of the S Corporation be used by its shareholders as a credit against their individual Montana tax liability?

Yes. The 1% contractor's gross receipt tax which has been remitted to the state and withheld from an S Corporation contractor can be passed through to the shareholders and used as a credit against the shareholder's Montana income tax liability. The amount of credit that passes through to each separate shareholder is determined based on their percentage of ownership in the S Corporation.

This credit is allowed for the tax year that the net income from the contract subject to the 1% contractor's gross receipts tax, is earned and reported on the shareholders income tax return. If the S Corporation reports its income from the contract on a percentage of completion method, the contractor's gross receipts tax credit is required to be allocated accordingly.

QUESTIONS AND ASSISTANCE

My business is a partnership which files a Montana Partnership return (Form PTE). I have completed my Montana partnership return and have ordinary income passing through to my partners. Can the 1% contractor's gross receipts tax paid on behalf of the partnership be used by its partners as a credit against their Montana tax liability?

Yes. The 1% contractor's gross receipt tax which has been remitted to the state and withheld from a partnership can be passed through to the partners and used as a credit against the partner's Montana income tax liability. The amount of credit that passes through to each separate partner is determined based on their distributive share of income from the partnership. This credit is allowed for the taxable year that the net income from the contract subject to the 1% contractor's gross receipts tax, is earned and reported on the partners' income tax return. If the partnership reports its income from the contract on a percentage of completion method, the contractor's gross receipts tax credit is required to be allocated accordingly.

Call us at (406) 444-6900, or Montana Relay at 711 for hearing impaired.

Website: <https://MTRevenue.gov>

Transaction Portal (TAP): <https://tap.dor.mt.gov>

Mailing Address:

Montana Department of Revenue
PO Box 6309
Helena, MT 59604-6309

EXAMPLE: TRANSACTIONAL FLOW CHART OF THE 1% CONTRACTOR'S GROSS RECEIPTS TAX

Step 1: Register Contract	Completed by Government Entity Government entity enters into a contract with Prime Contractor (A) and registers the contract.
Step 2: Register Contract	Completed by Prime Contractor (A) Prime Contractor (A) enters into a contract with 1st Tier Subcontractors (1); (2); (3); (4); and (5) and registers separately each contract between Prime Contractor (A) and 1st Tier Subcontractor (1), (2), (3), (4), and (5).
Step 3: Withholding Return/Payment	Completed by Government Entity Government entity dispenses to Prime Contractor (A) \$100,000. Prime Contractor (A) receives \$99,000. Government Entity submits CGR-2 with \$1,000 payment (\$100,000 x 1% = \$1,000), which is applied to Prime Contractor (A) 1% Contractor's Gross Receipts Account.
Step 4: Withholding Return/ Allocation	Completed by Prime Contractor (A) Prime Contractor (A) dispenses to 1st Tier Subcontractor (3) \$50,000 for services performed. 1st Tier Subcontractor (3) receives \$49,500 from Prime Contractor (A). Prime Contractor submits CGR-2 with allocation request of \$500 from Prime Contractor (A)'s CGR account to 1st Tier Subcontractor CGR account.
Step 5: Register Contract	Completed by 1st Tier Subcontractor (3) 1st Tier Subcontractor (3) enters into contracts with 2nd Tier Subcontractor (2) and (3) and registers the contracts.
Step 6: Withholding Return/ Allocation	Completed by 1st Tier Subcontractor (3) 1st Tier Subcontractor (3) dispenses to 2nd Tier Subcontractor (3) \$25,000 for services performed. 2nd Tier Subcontractor (3) receives \$24,750 from 1st Tier Subcontractor (3). 1st Tier Subcontractor submits CGR-2 with allocation request of \$250 from 1st Tier Subcontractor's CGR account to 2nd Tier Subcontractors CGR account.
Step 7: Register Contract	Completed by 2nd Tier Subcontractor (3) 2nd Tier Subcontractor (3) enters into contracts with 3rd Tier Subcontractor (2) and (3) and registers the contracts.
Step 8: Withholding Return/ Allocation	Completed by 2nd Tier Subcontractor (3) 2nd Tier Subcontractor (3) dispenses to 3rd Tier Subcontractors (2) and (3) \$5,000 each for services performed. 3rd Tier Subcontractors (2) and (3) each receives \$4,950 from 2nd Tier Subcontractor (3). 2nd Tier Subcontractor submits CGR-2 and allocation request for \$50 from 2nd Tier Subcontractor's CGR account to 3rd Tier Subcontractors (2) and (3) CGR accounts.
Step 9 Application for Refund	Completed by Prime Contractor (A); 1st Tier Subcontractor; 2nd Tier Subcontractor; and 3rd Tier Subcontractor requesting a refund of the 1% Contractor's Gross Receipts Tax paid. CGR Account Balances that can be used as a refund or as a credit against income taxes: Prime Contractor (A) (\$500) 1st Tier Subcontractor (3) (\$250) 2nd Tier Subcontractor (3) (\$150) 3rd Tier Subcontractor (2) (\$50) 3rd Tier Subcontractor (3) (\$50)

Contract - Montana Public Building
Contract #: A/E #01-01-01

Government Agency

Expense	Income	Asset	Liability
Building 100,000			99,000 Cash 1,000 Cash

1st Tier Subcontractor (3)

Expense	Income	Asset	Liability
	50,000 Building	Cash 49,500 500	
Building 25,000			24,750 Cash 250 Prepaid Tax

3rd Tier Subcontractor (2)

Expense	Income	Asset	Liability
	5,000 Building	Cash 4,950 Prepaid Tax 50	

Prime Contractor (A)

Expense	Income	Asset	Liability
	100,000 Building	Cash 99,000 Prepaid Tax 1,000	
Building 50,000			49,500 Cash 500 Prepaid Tax

2nd Tier Subcontractor (3)

Expense	Income	Asset	Liability
	25,000 Building	Cash 24,750 Prepaid Tax 250	
Building 10,000			9,900 Cash 100 Prepaid Tax

3rd Tier Subcontractor (3)

Expense	Income	Asset	Liability
	5,000 Building	Cash 4,950 Prepaid Tax 50	

1% Contractor's Gross Receipt Account - Department of Revenue Entries

	Prime Contractor (A)		1st Tier Subcontractor (3)		2nd Tier Subcontractor (3)		3rd Tier Subcontractor (2)		3rd Tier Subcontractor (3)	
	Debit	Credit	Debit	Credit	Debit	Credit	Debit	Credit	Debit	Credit
Government Entity - Prime		(1,000)								
Prime - 1st Tier Subcontractor	500			(500)						
1st Tier Subcontractor - 2nd Tier Subcontractor			250			(250)				
2nd Tier Subcontractor - 3rd Tier Subcontractor					50			(50)		
2nd Tier Subcontractor - 3rd Tier Subcontractor					50					(50)
1% Contractor's Gross Receipt Account Balance		(500)		(250)		(150)		(50)		(50)

CGR credit that can be used as a refund or a credit against income tax.

