



ADMINISTRATIVE RULES OF MONTANA

42.26.903 APPORTIONMENT OF APPORTIONABLE INCOME

- (1) Apportionable income, in general, is apportioned to this state by a three-factor formula consisting of property, payroll, and receipts regardless of the method of accounting for long-term contracts elected by the taxpayer. The total of the property, payroll, and receipts percentages is divided by three to determine the apportionment percentage. The apportionment percentage is then applied to apportionable income to determine the amount apportioned to this state.
- (2) Under the percentage of completion method of accounting for long-term contracts, the amount to be included each year as apportionable income from each contract is the amount by which the gross contract price that corresponds to the percentage of the entire contract that has been completed during the income years exceeds all expenditures made during the income year in connection with the contract. In so doing, the account must be made of the material and supplies on hand at the beginning and end of the income year for use in each such contract.
- (3) Under the completed contract method of accounting, apportionable income derived from long-term contracts is reported for the income year in which the contract is finally completed and accepted. Therefore, a special computation is required to compute the amount of apportionable income attributable to this state from each completed contract. Thus, all receipts and expenditures applicable to such contracts, whether complete or incomplete as of the end of the income year, are excluded from apportionable income derived from other sources. For example, short-term contracts, interest, rents, royalties, etc., which are apportioned by the regular three-factor formula of property, payroll, and receipts.
- (4) In general the numerator and denominator of the property factor shall be determined as set forth in ARM 42.26.231 through 42.26.237 and 42.26.262. However, the following special rules are also applicable:
 - (a) The average value of the taxpayer's cost (including materials and labor) of construction in progress, to the extent such costs exceed progress billings (accrued or received depending on whether the taxpayer is on the accrual or cash accounting method) shall be included in the denominator of the property factor. The value of any such construction costs attributable to construction projects in this state shall be included in the numerator of the property factor.
 - (b) Rent paid for the use of equipment directly attributable to a particular construction project is included in the property factor at eight times the net annual rental rate even though such rental expense may be capitalized into the cost of construction.
 - (c) The property factor is computed in the same manner for all long-term contract methods of accounting and is computed for each income year even though under the completed contract method of accounting, apportionable income is computed separately.

- (5) In general the numerator and denominator of the payroll factor shall be determined as set forth in ARM 42.26.243 and 42.26.244. However, the following special criteria are also applicable:
 - (a) Compensation paid to employees attributable to a particular construction project is included in the payroll factor even though the costs may be capitalized into the cost of construction.
 - (b) Compensation paid to employees who in the aggregate perform most of their services in a state which their employer does not report them for unemployment tax purposes, shall nonetheless be attributed to the state where the services are actually performed.
 - (c) The payroll factor is computed in the same manner for all long-term contract methods of accounting and is computed for each income year even though under the completed contract method of accounting, apportionable income is computed separately.
- (6) In general the numerator and denominator of the receipts factor shall be determined as set forth in ARM 42.26.253 and 42.26.254. However, the following special criteria are also applicable:
 - (a) Gross receipts derived from the performance of a contract are attributable to this state if the construction project is located in this state. If the construction project is located partly within and partly without this state, the gross receipts attributable to this state are based upon the ratio of construction costs for the project in this state incurred during the income year to the total construction costs for the entire project during the income year or any other method, such as engineering cost estimates, which will provide a reasonable apportionment.
 - (b) If the percentage of completion method is used, the receipts factor includes only that portion of the gross contract price which corresponds to the percentage of the entire contract which was completed during the income year.
 - (c) If the completed contract method of accounting is used, the receipts factor includes the portion of the gross receipts (progress billings) received or accrued, whichever is applicable, during the income year attributable to each contract.
 - (d) The receipts factor, except as noted in (6)(b) and (c), is computed in the same manner, regardless of which long-term method of accounting the taxpayer has elected, and is computed for each income year even though under the completed contract method of accounting, apportionable income is computed separately.
- (7) The total of the property, payroll, and receipts percentages is divided by three to determine the apportionment percentage. The apportionment percentage is then applied to apportionable income to establish the amount apportioned to this state.

Authorizing statute(s): 15-31-313, 15-31-501, MCA

Implementing statute(s): 15-31-301, 15-31-312, MCA

History: NEW, 1988 MAR p. 1818, Eff. 8/12/88; TRANS, from 42.26.292 and AMD, 2001 MAR p. 2469, Eff. 12/21/01; AMD, 2017 MAR p. 2328, Eff. 1/1/18.