



ADMINISTRATIVE RULES OF MONTANA

42.4.2704 TAX CREDIT AND DEDUCTION LIMITATIONS

- (1) The credit allowed a corporation, estate, trust, or individual against its tax liability for a contribution of a planned gift is the percentage, as shown in the following table, of the present value of the allowable contribution, as defined in ARM 42.4.2701. The credit allowed against the tax liability of the corporation, estate, or trust for a direct contribution is equal to 20 percent of the charitable contribution. The maximum credit that may be claimed in one year is \$15,000 per donor. A contribution made in a previous tax year cannot be used for a credit in any subsequent tax year.

Planned Gifts by Individuals or Entities

<u>Percent of Present Value</u>	<u>Used to Calculate Maximum Credit</u>	<u>Maximum Credit Per Year</u>
40%	\$37,500	\$15,000

- (2) The credit allowed against a corporate, estate, trust, or individual tax liability for a charitable gift made by a corporation, small business corporation, estate, trust, partnership, or limited liability company directly to a qualified endowment is the percentage, as shown in the following table, of the allowable contribution as defined in ARM 42.4.2701.

Outright Gifts by Eligible Entities

<u>Percent of Allowable Contribution</u>	<u>Allowable Contribution Used to Calculate Maximum Credit</u>	<u>Maximum Credit Per Year</u>
20%	\$75,000	\$15,000

- (3) Any amount taken as a deduction from federal taxable income that was used to calculate the tax credit must be added back when determining Montana taxable income. The following examples are provided for illustrative purposes only:
- (a) An individual makes an eligible planned gift of \$20,000. The individual takes a federal itemized deduction for \$20,000. The individual's Montana tax liability is \$5,000. The tax credit is equal to \$5,000. The individual must add back \$12,500 to federal taxable income to claim the credit. Forty percent of \$12,500 is the amount used to calculate a credit of \$5,000.
 - (b) A trust makes an eligible planned gift of \$100,000 and takes a federal deduction in this amount. The trust's tax liability is \$30,000. The trust is eligible to claim the maximum amount of credit, \$15,000. The trust must add back \$37,500 to federal taxable income, which is the amount used to calculate the maximum amount of the tax credit.
 - (c) A corporation makes an outright gift of \$30,000. The corporation's tax liability is \$50,000. The tax credit is equal to \$6,000. The corporation must add back \$30,000 to federal taxable income, which is the amount used to calculate the tax credit.
- (4) A contribution to a qualified endowment by a small business corporation, partnership, or limited liability company qualifies for the credit only if the entity carried on a trade or business or rental activity during the tax year the contribution was made.
- (5) The contribution to a qualified endowment from a small business corporation, partnership, or limited liability company is passed through to the shareholders, partners, or members in the same proportion as their distributive share of the entity's income or loss for Montana income tax purposes. The proportionate share of the contribution passed through to each shareholder, partner, or member becomes an allowable contribution for that donor for that year, and the credit allowed and the excess contribution deduction allowed are calculated as set forth in (1) and (2). The credit maximums apply at the corporation and individual levels, and not at the pass-through entity's level for partnerships, small business corporations, and limited liability companies.
- (6) Deductions and credit limitations for an estate or trust are as follows:
- (a) if an estate or trust claims a credit based on the computation of the full amount of the contribution, there is no credit available to beneficiaries;
 - (b) any portion of a contribution not used in the calculation of credit for the estate may be passed through to the beneficiaries, in the same proportion as their distributive share of the estate's or trust's income or loss for Montana income tax purposes; however, beneficiaries may deduct only that portion of allowable contributions not used toward the credit or deduction claimed by the estate or trust; or
 - (c) if the estate or trust has deducted the full amount of the contribution, the credit may not be claimed by either the estate, trust, or the individual beneficiaries.
- (7) The rate a beneficiary will use to calculate their credit for an allowable contribution passed to them by an estate will be based on the nature of the gift made by the estate. For example, if an estate makes an outright gift to a qualified endowment, and the contribution is passed to a beneficiary, the beneficiary will calculate their credit using the 20 percent rate.
- (8) A donor may, at a later date, name or substitute the Montana qualified endowment, as defined in 15-30-2327, MCA, to receive the planned gift provided that the original trust or gift document reserves in the donor the right to do so.

Authorizing statute(s): 15-30-2620, 15-31-501, MCA

Implementing statute(s): 15-30-2327, 15-30-2328, 15-30-2329, 15-31-161, 15-31-162, MCA

History: NEW, 1998 MAR p. 1004, Eff. 4/17/98; AMD, 2000 MAR p. 2109, Eff. 8/11/00; AMD, 2002 MAR p. 3722, Eff. 12/27/02; AMD and TRANS, from ARM 42.15.514, 2004 MAR p. 1965, Eff. 8/20/04; AMD, 2008 MAR p. 62, Eff. 1/18/08; AMD, 2010 MAR p. 1209, Eff. 5/14/10; AMD, 2013 MAR p. 216, Eff. 2/15/13; AMD, 2014 MAR p. 2039, Eff. 9/5/14; AMD, 2017 MAR p. 2095, Eff. 11/10/17; AMD, 2024 MAR p. 2162, Eff. 9/7/24.