



ADMINISTRATIVE RULES OF MONTANA



42.26.205 TWO OR MORE BUSINESSES OF A SINGLE TAXPAYER

- (1) A taxpayer may have more than one "trade or business." In such cases, it is necessary to determine the apportionable income attributable to each separate trade or business. The income of each business is then apportioned by an apportionment formula which takes into consideration the in-state and out-of-state factors which relate to the trade or business income being apportioned.
- (2) The determination of whether the activities of the taxpayer constitute a single trade or business will depend on the facts in each case. In general, the activities of the taxpayer will be considered a single business if there is evidence to indicate that the segments under consideration are integrated with, dependent upon, or contribute to each other and the operations of the taxpayer as a whole. The following factors are considered to be good indicia of a single trade or business, and the presence of any of these factors creates a strong presumption that the activities of the taxpayer constitute a single trade or business:
 - (a) A taxpayer is generally engaged in a single trade or business when all of its activities are in the same general line. For example, a taxpayer which operates a chain of retail grocery stores will almost always be engaged in a single trade or business.
 - (b) A taxpayer is almost always engaged in a single trade or business when its various divisions or segments are engaged in different steps in a large, vertically structured enterprise. For example, a taxpayer which explores for and mines copper ores; concentrates, smelts, and refines the copper ores; and fabricates the refined copper into consumer products is engaged in a single trade or business regardless of the fact that the various steps in the process are operated substantially independently of each other with only general supervision from the taxpayer's executive offices.
 - (c) A taxpayer which might otherwise be considered as engaged in more than one trade or business is properly considered as engaged in one trade or business when there is a strong central management, coupled with the existence of centralized departments for such functions as financing, advertising, research, or purchasing. Thus, some conglomerates may properly be considered as engaged in only one trade or business when the central executive officers are normally involved in the operations of various divisions and there are centralized offices which perform for the divisions the normal matters which a truly independent business would perform for itself, such as accounting, personnel, insurance, legal, purchasing, advertising, or financing.

Authorizing statute(s): 15-1-201, 15-31-313, 15-31-501, MCA

Implementing statute(s): 15-1-601, Title 15, chapter 31, part 3, MCA

History: NEW, Eff. 1/2/77; AMD, 1979 MAR p. 1691, Eff. 12/28/79; AMD, 1993 MAR p. 572, Eff. 4/16/93; AMD, 2017 MAR p. 2328, Eff. 1/1/18.