



ADMINISTRATIVE RULES OF MONTANA

42.9.109 PARTNERS, SHAREHOLDERS, MANAGERS, AND MEMBERS WHO ARE TAX-EXEMPT ENTITIES

- (1) A pass-through entity is required to withhold tax on behalf of a partner, shareholder, manager, or member even if the partner, shareholder, manager, or member is not organized and operated for profit or is a stock bonus, pension, profit-sharing, or individual retirement plan. A partner, shareholder, manager, or member seeking the benefits of exemption from Montana filing and tax requirements must comply with all statutory requirements authorizing the classification claimed.
- (2) In order to establish exemption status and thus be relieved of the duty of filing returns and paying tax based upon income received from a pass-through entity, each partner, shareholder, manager, or member claiming exemption must file an affidavit with the department showing:
 - (a) the character of the organization;
 - (b) the purpose it was organized for;
 - (c) its actual activities; and
 - (d) the sources and the disposition of its income.
- (3) Incorporated not-for-profit entities must file the affidavit required in (2) and include:
 - (a) a statement disclosing whether or not any of its income may inure to the benefit of any private shareholder or individual;
 - (b) a copy of the articles of incorporation;
 - (c) a copy of the by-laws; and
 - (d) copies of the latest financial statements showing the assets, liabilities, receipts, and disbursements.
- (4) Other unincorporated stock bonus, pension, profit-sharing, or individual retirement plans must file the affidavit required in (2) and include:
 - (a) documents relevant to the adoption and administration of the plan;
 - (b) copies of the latest financial summary or statements showing assets, liabilities, receipts, and disbursements; and
 - (c) a copy of any form the partner, shareholder, manager, or member is required to file with the IRS, if applicable. An example is federal Form 5500 Annual Return/Report of Employee Benefit Plan.
- (5) In addition, if the IRS has granted the partner, shareholder, manager, or member exemption from the federal income tax, a certified copy of the exemption certificate or letter must also be filed.

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

Implementing statute(s): 15-30-2151, 15-30-3313, 15-31-101, 15-31-102, MCA

History: NEW, 2015 MAR p. 2152, Eff. 12/11/15.