



ADMINISTRATIVE RULES OF MONTANA

42.26.1303 RECEIPTS FACTOR

- (1) The receipts factor is a fraction, the numerator of which is the receipts of the taxpayer in Montana during the taxable year and the denominator of which is the receipts of the taxpayer within and without Montana during the taxable year. The method of calculating receipts for purposes of the denominator is the same as the method used in determining receipts for purposes of the numerator. The receipts factor shall include only those receipts described herein which constitute apportionable income and are included in the computation of the apportionable income base for the taxable year.
- (2) Interest, fees, and penalties imposed in connection with loans secured by real property.
 - (a) The numerator of the receipts factor includes interest, fees, and penalties imposed in connection with loans secured by real property if the property is located within Montana. If the property is located both within Montana and one or more other states, the receipts described in this subsection are included in the numerator of the receipts factor if more than fifty percent of the fair market value of the real property is located within Montana. If more than fifty percent of the fair market value of the real property is not located within any one state, then the receipts described in this subsection shall be included in the numerator of the receipts factor if the borrower is located in Montana.
 - (b) The determination of whether the real property securing a loan is located within Montana shall be made as of the time the original agreement was made and any and all subsequent substitutions of collateral shall be disregarded.
- (3) Interest, fees, and penalties imposed in connection with loans not secured by real property. The numerator of the receipts factor includes interest, fees, and penalties imposed in connection with loans not secured by real property if the borrower is located in Montana.
- (4) Net gains from the sale of loans. The numerator of the receipts factor includes net gains from the sale of loans. Net gains from the sale of loans includes income recorded under the coupon stripping rules of Section 1286 of the Internal Revenue Code.
 - (a) The amount of net gains (but not less than zero) from the sale of loans secured by real property included in the numerator is determined by multiplying such net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to (2) above, and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.
 - (b) The amount of net gains (but not less than zero) from the sale of loans not secured by real property included in the numerator is determined by multiplying such net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor

pursuant to (5) below, and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

- (5) Receipts from fees, interest, and penalties charged to card holders. The numerator of the receipts factor includes fees, interest, and penalties charged to credit, debit, or similar card holders, including but not limited to annual fees and overdraft fees, if the billing address of the card holder is in Montana.
- (6) Net gains from the sale of credit card receivables. The numerator of the receipts factor includes net gains (but not less than zero) from the sale of credit card receivables multiplied by a fraction, the numerator of which is the amount included in the numerator of the receipts factor pursuant to (5) above, and the denominator of which is the taxpayer's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.
- (7) Card issuer's reimbursement fees. The numerator of the receipts factor includes:
 - (a) All credit card issuer's reimbursement fees multiplied by a fraction, the numerator of which is the amount of fees, interest, and penalties charged to credit card holders included in the numerator of the receipts factor pursuant to (5) above, and the denominator of which is the taxpayer's total amount of fees, interest, and penalties charged to credit card holders.
 - (b) All debit card issuer's reimbursement fees multiplied by a fraction, the numerator of which is the amount of fees, interest, and penalties charged to debit card holders included in the numerator of the receipts factor pursuant to (5) above, and the denominator of which is the taxpayer's total amount of fees, interest, and penalties charged to debit card holders.
 - (c) All other card issuer's reimbursement fees multiplied by a fraction, the numerator of which is the amount of fees, interest, and penalties charged to all other card holders included in the numerator of the receipts factor pursuant to (5) above, and the denominator of which is the taxpayer's total amount of fees, interest, and penalties charged to all other card holders.
- (8) Receipts from merchant discount.
 - (a) If the taxpayer can readily determine the location of the merchant and if the merchant is in Montana, the numerator of the receipts factor includes receipts from the merchant discount.
 - (b) If the taxpayer cannot readily determine the location of the merchant, the numerator of the receipts factor includes such receipts from the merchant discount multiplied by a fraction:
 - (i) in the case of a merchant discount related to the use of a credit card, the numerator of which is the amount of fees, interest, and penalties charged to credit card holders that is included in the numerator of the receipts factor pursuant to (5) above, and the denominator of which is the taxpayer's total amount of fees, interest, and penalties charged to credit card holders; and
 - (ii) in the case of a merchant discount related to the use of a debit card, the numerator of which is the amount of fees, interest, and penalties charged to debit card holders that is included in the numerator of the receipts factor pursuant to (5) above, and the denominator of which is the taxpayer's total amount of fees, interest, and penalties charged to debit card holders.
 - (c) The taxpayer's method for sourcing each receipt from a merchant discount must be consistently applied to such receipt in all states that have adopted sourcing methods

substantially similar to (a) and (b) above, and must be used on all subsequent return for sourcing receipts from such merchant unless the department permits or requires application of the alternative method.

- (9) Receipts from ATM fees. The receipts factor includes all ATM fees that are not forwarded directly to another bank.
 - (a) The numerator of the receipts factor includes fees charged to a card holder for the use at an ATM of a card issued by the taxpayer if the card holder's billing address is in Montana.
 - (b) The numerator of the receipts factor includes fees charged to a card holder, other than the taxpayer's card holder, for the use of such card at an ATM owned or rented by the taxpayer, if the ATM is in Montana.
- (10) Loan servicing fees.
 - (a) The numerator of the receipts factor includes loan servicing fees derived from loans secured by real property multiplied by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to (2) above, and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.
 - (b) The numerator of the receipts factor includes loan servicing fees derived from loans not secured by real property multiplied by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to (3) above, and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.
 - (c) In circumstances in which the taxpayer receives loan servicing fees for servicing either the secured or the unsecured loans of another, the numerator of the receipts factor shall include such fees if the borrower is located in Montana.
- (11) Receipts from the financial institution's investment assets and activity and trading assets and activity.
 - (a) Interest, dividends, net gains (but not less than zero), and other income from investment assets and activities and from trading assets and activities that are reported on the taxpayer's financial statements, call reports, or similar reports shall be included in the receipts factor. Investment assets and activities and trading assets and activities include but are not limited to: investment securities; trading account assets; federal funds; securities purchased and sold under agreements to resell or repurchase; options; futures contracts; forward contracts; notional principal contracts such as swaps; equities; and foreign currency transactions. With respect to the investment and trading assets and activities described in (i) and (ii) below, the receipts factor shall include the amounts described.
 - (i) The receipts factor shall include the amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements.
 - (ii) The receipts factor shall include the amount by which interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from such assets and activities.

- (b) The numerator of the receipts factor includes interest, dividends, net gains (but not less than zero), and other income from investment assets and activities and from trading assets and activities described in (a) above, that are attributable to Montana.
 - (i) The amount of interest, dividends, net gains (but not less than zero), and other income from investment assets and activities in the investment account to be attributed to Montana and included in the numerator is determined by multiplying all such income from such assets and activities by a fraction, the numerator of which is the average value of such assets which are properly assigned to a regular place of business of the taxpayer within Montana, and the denominator of which is the average value of all such assets.
 - (ii) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to Montana and included in the numerator is determined by multiplying the amount described in (a)(i) above, from such funds and such securities by a fraction, the numerator of which is the average value of federal funds sold and securities purchased under agreements to resell which are properly assigned to a regular place of business of the taxpayer within Montana and the denominator of which is the average value of all such funds and such securities.
 - (iii) The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions (but excluding amounts described in (i) and (ii) above, attributable to Montana and included in the numerator is determined by multiplying the amount described in (a)(ii) above, by a fraction, the numerator of which is the average value of such trading assets which are properly assigned to a regular place of business of the taxpayer within Montana and the denominator of which is the average value of all such assets.
 - (iv) For purposes of this section, average value shall be determined using the rules for determining the average value of tangible personal property set forth in 15-31-307, MCA.
- (c) In lieu of using the method set forth in (b) above, the taxpayer may elect, or the department may require in order to fairly represent the business activity of the taxpayer in Montana, the use of the method set forth in this subsection.
 - (i) The amount of interest, dividends, net gains (but not less than zero), and other income from investment assets and activities in the investment account to be attributed to Montana and included in the numerator is determined by multiplying all such income from such assets and activities by a fraction, the numerator of which is the gross income from such assets and activities which are properly assigned to a regular place of business of the taxpayer within Montana and denominator of which is the gross income from all such assets and activities.
 - (ii) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to Montana and included in the numerator is determined by multiplying the amount described in (a)(i) above, from such funds and such securities by a fraction, the numerator of which is the gross income from such funds and such securities which

are properly assigned to a regular place of business of the taxpayer within Montana and denominator of which is the gross income from all such funds and such securities.

- (iii) The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions (but excluding amounts described in (c)(i) and (c)(ii) above), attributable to Montana and included in the numerator is determined by multiplying the amount described in (a)(ii) by a fraction, the numerator of which is the gross income from such trading assets and activities which are properly assigned to a regular place of business of the taxpayer within Montana and the denominator of which is the gross income from all such assets and activities.
 - (d) If the taxpayer elects or is required by the department to use the method set forth in subsection (c) above, it shall use this method on all subsequent returns unless the taxpayer receives prior permission from the department to use, or the department requires, a different method.
 - (e) The taxpayer shall have the burden of proving that an investment asset or activity or trading asset activity was properly assigned to a regular place of business outside of Montana by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside Montana. Where the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than one regular place of business and one such regular place of business is in Montana and one such regular place of business is outside Montana, such asset or activity shall be considered to be located at the regular place of business of the taxpayer where the investment or trading policies or guidelines with respect to the asset or activity are established. Unless the taxpayer demonstrates to the contrary, such policies and guidelines shall be presumed to be established at the commercial domicile of the taxpayer.
- (12) Attribution of certain receipts to commercial domicile. All receipts which would be assigned under this rule to a state in which the taxpayer is not taxable shall be included in the numerator of the receipts factor, if the taxpayer's commercial domicile is in Montana.

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

Implementing statute(s): 15-1-601, 15-31-301, 15-31-302, 15-31-303, 15-31-304, 15-31-305, 15-31-310, 15-31-311, 15-31-312, MCA

History: NEW, 2017 MAR p. 2337, Eff. 1/1/18.