



ADMINISTRATIVE RULES OF MONTANA

42.15.125 NET LONG-TERM CAPITAL GAINS-CALCULATION OF TAX FOR PART-YEAR RESIDENTS AND NONRESIDENTS

- (1) The tax on net long-term capital gains recognized by nonresidents equals the tax on them, calculated under 15-30-2103(2), MCA, multiplied by the ratio of net long-term capital gains sourced to Montana under 15-30-2104, MCA, to the total net long-term capital gains from all sources.
- (2) When net long-term capital gains are recognized by a nonresident taxpayer, the amounts of net long-term capital gains must be excluded from the numerator and the denominator of the ratio provided under 15-30-2104, MCA, to calculate the tax under 15-30-2103(2), MCA.
- (3) Informational examples regarding net long-term capital gains administered under this rule are as follows:
 - (a) Married nonresident taxpayers filing jointly in 2024 recognize a net taxable loss of (\$100,000) and a net long-term capital gain of \$50,000 which is sourced to Montana. Even though the Montana source income is positive, their tax liability is zero because the total taxable income is zero and 15-30-2103(1), MCA, does not create a separate tax on net long-term capital gains.
 - (b) Assuming the same taxpayers as in (a), except that they recognize a net taxable income of \$71,000, comprised of \$21,000 in ordinary income and \$50,000 in net long-term capital gains. The first tax rate applied is the tax on ordinary income which is 4.7 percent. The lower capital gains rate under 15-30-2103(2), MCA, is applied to the first \$20,000 of capital gains with the remaining \$30,000 subject to the upper rate.
 - (c) Assuming the same taxpayers as in (a) and (b) except income is \$40,000 of the net long-term capital gains sourced to Montana, \$7,000 of the nonqualified taxable income sourced to Montana and the ratio of Montana net long-term capital gains to capital gains from all sources is 0.80. The nonresident tax under 15-30-2103(2), MCA, equals \$1,464 [$\$1,830 \times 0.8$]. The nonresident ratio applied against the tax on the remaining nonqualified income is one-third. The nonresident tax on nonqualified taxable income is \$329 [$(\$21k \times 0.047) \times 0.333$]. The total tax for the nonresident is \$1,793.

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

Implementing statute(s): 15-30-2103, 15-30-2104, MCA

History: NEW, 2025 MAR, 42-1088, Eff. 1/25/25.