



ADMINISTRATIVE RULES OF MONTANA

42.9.111 PASS-THROUGH ENTITIES—STATUTE OF LIMITATIONS FOR AUDIT ADJUSTMENTS

- (1) The department may revise any return of an entity if, in the opinion of the department, it is incorrect in any essential respect.
- (2) If a revision to a pass-through entity's information return changes the owners' distributive share of Montana source income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit, the department will review the owners' tax returns and determine if additional tax is due. If additional tax is due, the department may assess tax, penalties, and interest as follows:
 - (a) if the additional tax, penalties, and interest are due on a return filed by an individual, trust, or estate, it may be assessed within:
 - (i) five years of when the return was filed, if it pertains to a tax period beginning before January 1, 2015; or
 - (ii) three years after the return was filed if it pertains to a tax period beginning after December 31, 2014; or
 - (b) if the additional tax, penalties, and interest are due on a return filed by a C corporation, it may be assessed within three years of when the return was filed.
- (3) If a revision to a pass-through entity's composite return changes the amount of tax, penalties, and interest due on a composite return filed by the pass-through entity, the tax, penalties, and interest may be assessed within:
 - (a) five years of when the composite return was filed if it pertains to a tax period beginning before January 1, 2015; or
 - (b) three years after the return was filed if it pertains to a tax period beginning after December 31, 2014.
- (4) For purposes of (2) and (3), any return filed before the original due date is considered to be filed on the original due date.
- (5) If no return was filed by the taxpayer, the department may assess tax, penalties, and interest at any time.
- (6) There are various circumstances under which the statute of limitations described in (2)(a) and (3) may be extended as provided in 15-30-2605, MCA. The statute of limitations described in (2)(b) may be extended as provided in 15-31-509, MCA.

Implementing statute(s): 15-30-2605, 15-30-2606, 15-30-2607, 15-30-3302, 15-30-3312, 15-31-509, MCA

History: NEW, 2011 MAR p. 2679, Eff. 12/9/11; AMD, 2013 MAR p. 428, Eff. 3/29/13; AMD, 2016 MAR p. 2072, Eff. 11/11/16.