



ADMINISTRATIVE RULES OF MONTANA

42.9.110 PASS-THROUGH ENTITIES – AUDIT ADJUSTMENTS

- (1) The department reports the details of audit adjustments resulting from an audit or other review of a pass-through entity's information return to the entity and the owners of the pass-through entity.
- (2) The department reports the details of audit adjustments resulting from an audit or other review of a pass-through entity's composite tax return to the pass-through entity. The department does not report the details of audit adjustments to the eligible participants in the composite return because the pass-through entity is responsible for representing the eligible participants in appeals.
- (3) If the audit adjustments resulting from an audit or other review of a pass-through entity's information return affect the Montana tax returns filed by the partners, shareholders, or other owners of the pass-through entity, then the department may adjust an owner's tax return to reflect the audit adjustments that passed through to the owner. If the department adjusts an owner's tax return, it will inform the owner of the details of the adjustments to its tax return, but the department will not report to the pass-through entity the details of the adjustments to the owner's tax return.
- (4) If the audit adjustments resulting from an audit or other review of a pass-through entity's information return affect Montana tax returns that partners, shareholders, and other owners have not filed, the department may request that the owners file tax returns. If an owner does not file a tax return, the department may estimate the owner's tax liability in accordance with 15-30-2605, MCA. The department will not report the details of the owner's estimated tax liabilities to the pass-through entity.
- (5) Except as provided in (6), for multi-tiered entity structures, the department will not report the details of audit adjustments resulting from an audit or other review of a pass-through entity's information return to a related entity, unless the related entity is an owner of the audited pass-through entity. For example:
 - (a) if an audit or other review of a first-tier entity results in an audit adjustment the department will report the details of the audit adjustments to the first-tier entity and the owners of the first-tier entity. However, the department will not report the details of the audit adjustments to the owners of the second-tier entity, the third-tier or any higher-tier entity.
- (6) If a single member limited liability company that is considered a disregarded entity for federal tax purposes is an owner of the pass-through entity, the department may report the details of the audit adjustments directly to the disregarded entity's owner.
- (7) In multi-tiered entity structures, audit adjustments resulting from an audit or other review of a pass-through entity's tax return may affect the tax returns of entities and individuals that are not

direct owners of the pass-through entity. If audit adjustments pass through to these indirect owners the department may:

- (a) adjust the indirect owner's tax returns. If the department adjusts an indirect owner's tax return, then the department will notify the indirect owner of the adjustments to its tax return, but the department will not report the details of the pass-through entity's audit adjustments that passed through to the indirect owner. If the indirect owner wants the details of the audit adjustments that affected its return, the indirect owner will have to contact the pass-through entity that it owns an interest in for that information; or
- (b) estimate the indirect owner's tax liability in accordance with 15-30-2605, MCA. If the department estimates an indirect owner's tax liability, the department will notify the indirect owner of the estimated tax liability. The department will not report the details of the pass-through entity's audit adjustments that passed through to the indirect owner. If the indirect owner wants the details of the audit adjustments that affected its return, the indirect owner will need to contact the pass-through entity that it owns an interest in for that information.

Authorizing statute(s): 15-1-201, 15-30-3312, MCA

Implementing statute(s): 15-30-2605, 15-30-2618, 15-30-3302, 15-30-3311, 15-30-3312, 15-31-511, 35-1-1107, 35-8-405, 35-10-103, 35-10-402, 35-12-508, MCA

History: NEW, 2011 MAR p. 2679, Eff. 12/9/11; AMD, 2016 MAR p. 2072, Eff. 11/11/16.