INDIVIDUAL AND CORPORATE INCOME TAX

Montana Department of REVENUE

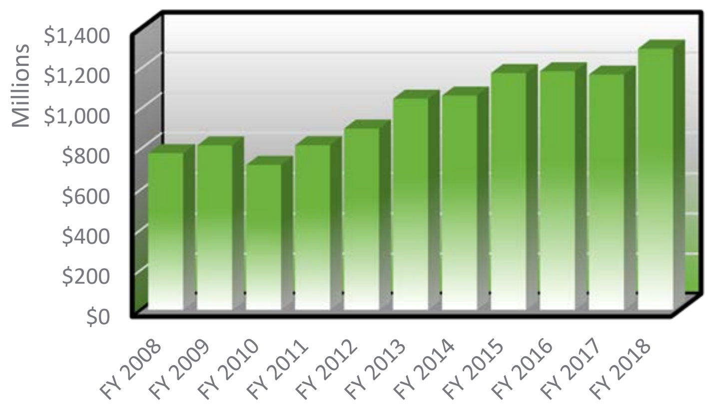
Overview of Individual Income Tax

The individual income tax is the largest source of state tax revenue. All income tax revenue is allocated to the state general fund, accounting for 54 percent of general fund revenue for Fiscal Year 2018. Income tax revenue is collected primarily through withholding from wages and other periodic payments, quarterly estimated tax payments, and payments made when a return is filed.

The following tables show income tax revenue and return filings. Income tax revenue is closely related to the state economy. The large drop in revenue for Fiscal Year 2010 and in returns for 2009 is due to the national recession.

Individual Income Tax Collections

Fiscal Year	Total Revenue
FY 2008	$776,574,977
FY 2009	$815,138,193
FY 2010	$717,834,371
FY 2011	$816,089,973
FY 2012	$898,851,201
FY 2013	$1,047,789,985
FY 2014	$1,063,284,408
FY 2015	$1,175,744,881
FY 2016	$1,184,827,762
FY 2017	$1,168,224,644
FY 2018	$1,297,776,586



Income Tax Returns and Refunds
Timely Filed Current Year Returns

Calendar Year	Returns	Returns with Refund	Percent with Refund	Average Refund
2004	547,623	294,025	66%	$468
2005	554,224	297,993	66%	$491
2006	572,256	311,789	66%	$464
2007	591,874	345,972	71%	$506
2008	601,078	345,172	70%	$598
2009	587,425	337,714	70%	$545
2010	596,021	335,904	68%	$532
2011	604,758	341,057	68%	$538
2012	611,360	343,678	68%	$523
2013	626,655	348,137	67%	$532
2014	635,045	350,760	67%	$536
2015	647,329	357,902	67%	$546
2016	647,855	364,936	68%	$578
2017	657,720	366,734	67%	$591

The Legislature enacted the income tax in 1933 and has made major changes infrequently. The latest change was enacted in 2003 (effective 2005), and it reduced the number of rates, lowered the top rate, capped the itemized deduction for federal taxes, and provided preferential treatment for capital gains income.

Most differences between the federal and Montana income tax structure reflect the legislative decisions to allow married couples to file separate in Montana when the file jointly for federal tax purposes, and to use Montana specific additions, subtractions and deductions in determining Montana taxable income.

Federal law provides different rate tables for married couples who file joint and separate returns, and couples generally have lower federal tax if they file a joint return. Most states either require couples to make the same choice between joint and separate returns as they did for their federal taxes, have different rate tables for joint and separate returns, or have a single tax rate so that the choice does not matter. Montana is one of only five states that do not have at least one of these provisions. Because of this, most two-income married couples find their tax is lower if they file a joint federal return and separate Montana returns. This is because when they file separately, the spouses can apply the lower brackets of the tax table twice on their combined income, instead of only once when they file jointly.

Montana also is one of only six states that allows a deduction for federal income taxes. Montana and two other states have a cap on the deduction, while the deduction is uncapped in three states. Most states do not allow this deduction because not having it allows lower rates. To raise the same revenue, a state that allows the deduction must have higher rates to compensate for the smaller tax base. The 2003 Legislature partially offset the revenue reduction from lower rates by capping the deduction for federal taxes.

Before 1981, the Legislature occasionally adjusted rate tables and other tax parameters for the effects of inflation. The 1981 Legislature assigned this task to the department, and each year the department adjusts rate brackets, standard deductions, personal exemptions, and the partial exemption for pension income for inflation. This prevents increases in individual tax liabilities that are due simply to inflation: Without this inflation adjustment, a person whose income just kept up with inflation would pay higher effective tax rates over time as inflation moved them to higher rate brackets.

The following bills passed by the 2015 Legislature affected the individual income tax:

House Bill 122 clarified that the wages of agricultural laborers are not subject to withholding.

House Bill 359 changed the schedule for inflation indexing of the rate table, personal exemption, standard deduction, and partial pension exemption. Beginning with 2016, the inflation indexing process began at the beginning of the tax year, rather than two-thirs of the way through the year, as was done before 2016.

House Bill 379 changed penalties and interest for late returns, late payments, or intentionally filing an inaccurate return to be more consistent with federal penalties and interest. It also reduced the time when the department may audit a return from five years to three years.

Senate Bill 175 expanded the credit for providing emergency lodging to victims of domestic violence. Previously, the credit was available for providing emergency lodging to an individual. This bill changed the wording to allow the credit for providing emergency lodging to a family.

Senate Bill 309 expanded the credit for allowing access across private land to isolated parcels of state land. It allowed the credit to be claimed for allowing access to national forest or U.S. Bureau of Land Management parcels.

Senate Bill 378 clarified the language exempting the military salaries of National Guard and Reserve members when they are called up for active duty or for homeland defense activity or a contingency operation.

Senate Bill 386 made changes to the circumstances where a pass-through entity is required to either file a composite return or make payments on behalf of its owners. It also reduced the maximum penalty for a pass-through entity failing to file a return.

Senate Bill 399 created a new type of tax-deferred savings account to be used to pay expenses of a family member with a disability. Deposits of up to $3,000 a year and earnings retained in the account would be exempt from state income tax.

Senate Bill 410 provides a tax credit for contributions to organizations that give scholarships to private school students or to a state account to fund grants to public schools for supplemental programs.

The following bills passed by the 2017 Legislature affected the individual income tax:

House Bill 42 changed the due date for partnership returns from the 15th day of the fourth month after then end of the tax year to the 15th day of the third month.

House Bill 63 changed the filing date for forms MW-3, RW-3 and related W-2 and 1099s from February 28th to January 31st.

House Bill 137 removed references to the Insure Montana tax credit from the state's statutes. It also extended the Securities Restitution Assistance Fund end date to July 1, 2021.

House Bill 175 increased the deduction for contributions to medical savings accounts from $3,000 to $3,500 in Tax Year 2018 and $4,000 for 2019. The bill also requires the amount to be adjusted for inflation each tax year after 2019. The bill also limits contributions to the medical savings accounts to the deductible amount. Finally, the bill also changed medical savings accounts to allow the funds to be withdrawn for long-term care, long-term care insurance and family leave expenses.

House Bill 308 created a non-refundable tax credit of $750 per apprentice, and $1,500 per veteran apprenticeship, for employers who participate in a Department of Labor and Industry registered apprenticeship program. The credit becomes available to employers in Tax Year 2018.

House Bill 391 created a state earned income tax credit that is equal to 3 percent of the federal earned income tax credit. The credit is fully refundable and is available starting Tax Year 2019.

House Bill 498 extended the termination date of the unlocking state lands credit from the end of Tax Year 2020 to the end of 2027.

House Bill 511 revises the Multistate Tax Compact to allow the market sourcing of sales when apportioning the Montana source income of some pass-through businesses.

House Bill 574 allows some individual income taxpayers to deduct wages, salaries, or business expenses from Montana income when the expenses cannot be deducted at the federal level, due to the taxpayer claiming a credit.

House Bill 597 created a deduction for taxpayers on their income taxes for donations made to the state's public land access network grant program.

Senate Bill 10 repealed the income tax credit for residential property tax on a principal residence.

Senate Bill 138 extended the time a taxpayer can claim an income tax refund to one year after the overpayment or filing of the income tax return.

Senate Bill 252 expands the current waiver from having to file a composite return, or withholding tax, for certain second-tier pass-through entities to qualifying C Corporations and other entities.

Calculation of Individual Income Tax

Calculation of Montana individual income tax begins with the taxpayer's Federal Adjusted Gross Income. Several adjustments are made to determine Montana Adjusted Gross Income:

- Income taxed by the state but exempted by the federal government is added.
- Income exempted by the state but taxed by the federal government is subtracted.
- Deposits to Montana tax-advantaged savings accounts are subtracted.
- Taxable withdrawals from Montana tax-advantaged savings accounts are added.
- Net adjustments from filing a joint federal return and separate state returns are added.
- Recoveries of costs deducted in previous years (primarily refunds of federal taxes previously deducted) are added.

The values of the taxpayer's exemptions and either itemized or standard deductions are subtracted from Montana Adjusted Gross Income to determine Montana Taxable Income. The state's standard deduction amount is set at 20 percent of the taxpayer's Montana Adjusted Gross Income, with minimum and maximum deduction amounts set. The value of exemptions and maximum and minimum standard deductions are adjusted for inflation each year.

Personal Income Tax Exemptions and Deductions

		Single and Separate Returns		Joint Returns	
Tax Year	Exemption Amount	Min. Standard Deduction	Max. Standard Deduction	Min. Standard Deduction	Max. Standard Deduction
2014	$2,330	$1,940	$4,370	$3,880	$8,740
2015	$2,330	$1,940	$4,370	$3,880	$8,740
2016	$2,380	$1,980	$4,460	$3,960	$8,920
2017	$2,410	$2,000	$4,510	$4,000	$9,020
2018	$2,440	$2,030	$4,580	$4,060	$9,160

Tax liability is calculated from the rate table. The rate table shows tax rates to apply to taxable income, i.e. income after making all federal and state adjustments and subtracting exemptions and deductions. The rate table is adjusted for inflation each year. The following table shows the upper limit on taxable income subject to each rate.

Marginal Tax Rate Income Limits

Tax Year	2014	2015	2016	2017	2018
1.0%	$2,800	$2,800	$2,900	$2,900	$3,000
2.0%	$5,000	$5,000	$5,100	$5,200	$5,200
3.0%	$7,600	$7,600	$7,800	$7,900	$8,000
4.0%	$10,300	$10,300	$10,500	$10,600	$10,800
5.0%	$13,300	$13,300	$13,500	$13,600	$13,900
6.0%	$17,100	$17,100	$17,400	$17,600	$17,900
6.9%	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited

Any credits the taxpayer may claim are subtracted from the tax liability to give the net tax. Non-refundable credits can partially or completely offset a taxpayer's tax liability. Refundable credits can more than offset a taxpayer's tax liability so that the taxpayer receives a payment from the state general fund rather than paying tax. Taxpayers with capital gains income are allowed a non-refundable credit equal to 2 percent of their capital gains. In effect, this credit reduces the taxes on capital gains to a maximum rate of 4.9 percent, compared to the maximum rate of 6.9 percent for other types of income. Other credits generally are a percentage of a certain type of qualifying expenditure the taxpayer has made.

The next six tables show information about individual line items on timely-filed full-year residents' income tax returns for 2016 and 2017. For each line item, the table shows the count of the number of returns with a value on that line and the sum of those values. The total in each counts column is the number of returns with a number on at least one line. It is not the sum of the counts for individual lines.

Information in these tables is from unaudited returns as filed by taxpayers. It does not reflect changes or adjustments that taxpayers or the department may make after the extension filing deadline. It also does not include information from late-filed returns.

Montana Individual Income Tax
Income Reported on Full-Year Residents' Returns
2016 and 2017

	2016		2017	
	Count	**Total**	**Count**	**Total**
Income Items				
Wage and salary income	440,429	$16,791,932,650	444,434	$17,474,821,673
Taxable interest income	184,220	$295,852,987	192,536	$297,882,239
Ordinary dividend income	117,897	$690,231,697	120,354	$774,329,625
Taxable refunds of state/local income taxes	103,029	$111,925,258	102,120	$109,337,852
Alimony received	814	$16,123,328	773	$15,181,215
Business income (Schedule C)	78,872	$862,601,508	80,309	$886,398,751
Capital gains income	114,704	$1,616,569,882	120,423	$2,188,181,373
Ordinary income gains	16,429	$80,014,927	16,491	$107,080,958
IRA distributions - Taxable amount	57,554	$782,897,577	61,137	$870,507,097
Pension and annuity income - Taxable amount	104,443	$2,215,680,872	106,410	$2,322,603,691
Rent, royalty, partnership, etc. income	103,650	$2,650,879,193	103,393	$2,552,538,401
Farm income	18,555	-$230,848,734	18,330	-$231,614,976
Unemployment compensation	23,794	$94,926,088	22,084	$87,578,113
Taxable social security benefits	89,908	$981,544,899	95,137	$1,072,023,315
Other income	33,488	-$545,398,888	33,685	-$551,154,101
Total income	561,552	$26,414,933,244	569,228	$27,975,695,226
Federal Adjustments to Income				
Educator expenses	10,969	$2,563,221	10,646	$2,542,462
Business expenses	766	$2,149,868	706	$1,962,930
Health savings account deduction	12,408	$41,310,075	12,737	$43,149,496
Moving expenses	2,925	$5,160,564	2,652	$4,753,851
One-half self-employment tax	64,296	$88,099,153	64,881	$89,951,840
Self-employed SEP, SIMPLE, and qual. plans	2,804	$50,148,146	2,805	$51,530,999
Self-employed health insurance deduction	25,897	$145,127,725	24,739	$152,651,623
Penalty on early withdrawal of savings	1,599	$280,108	1,628	$314,640
Alimony paid	1,189	$18,942,254	1,174	$18,847,494
IRA deduction	15,393	$66,073,642	15,302	$67,053,676
Student loan interest deduction	49,805	$46,125,127	50,616	$46,843,507
Tuition & fees deduction	5,330	$11,292,573	3,654	$7,716,922
Domestic production activities deduction	8,039	$57,962,441	7,635	$57,849,388
Federal write-ins	222	$1,571,465	263	$1,645,204
Total adjustments to income	148,923	$536,806,362	148,824	$546,814,032
Federal Adjusted Gross Income	561,634	$25,878,126,882	569,324	$27,428,881,194

Montana Individual Income Tax
Additions Reported on Full-Year Residents' Returns
2016 and 2017

	2016 Count	2016 Total	2017 Count	2017 Total
Montana Additions to Federal Adjusted Gross Income				
Interest on other states' municipal bonds	19,349	$95,925,034	19,639	$89,749,187
Dividends not included in FAGI	1,057	$633,479	931	$467,217
Taxable federal refunds	79,838	$109,638,481	83,053	$116,256,063
Recoveries of amounts deducted in earlier years	135	$382,825	212	$277,561
Additions to federal taxable social security or railroad retirement	9,689	$16,592,639	9,893	$17,622,237
Allocation of compensation to spouse	375	$6,824,402	350	$5,832,675
Medical savings account nonqualified withdrawals	57	$93,482	73	$122,519
First-time homebuyer's account nonqualified withdrawals	14	$27,839	*	$11,317
Farm and ranch risk management account taxable distributions	*	$3,500	*	$0
Dependent care assistance credit adjustment	34	$74,913	48	$96,664
Smaller federal estate and trust taxable distributions	76	$177,318	69	$180,223
Federal net operating loss carryover	5,121	$553,978,303	5,587	$585,869,318
Federal taxes paid by your S. corporation	45	$202,147	59	$214,057
Title plant depreciation	*	$0	*	$1,413
Other additions	2,539	$13,266,865	2,511	$14,102,800
Total Montana Additions	106,612	$797,821,227	110,424	$830,803,251

* Not disclosed due to confidentiality concerns

Montana Individual Income Tax
Subtractions Reported on Full-Year Residents' Returns
2016 and 2017

	2016 Count	2016 Total	2017 Count	2017 Total
Montana Subtractions from Federal Adjusted Gross Income				
Federal bonds exempt interest	19,244	$23,737,395	21,259	$25,990,828
Exempt tribal income	6,336	$216,137,415	6,248	$254,049,703
Exempt unemployment compensation	23,794	$94,926,088	22,084	$87,578,113
Exempt worker's comp benefits	124	$699,707	155	$774,048
Capital gains from small business investment companies	13	$24,738	*	$1,449,364
State tax refunds included in FAGI	103,014	$111,911,544	102,088	$109,313,706
Recoveries of amounts deducted in earlier years	14	$102,822	16	$87,493
Exempt active duty military salary	4,621	$174,056,632	4,735	$180,870,093
Nonresident exempt military income	144	$5,389,119	111	$4,919,395
Exempt life insurance premiums reimbursement (National Guard)	28	$15,633	28	$28,304
Exempt pension income	47,308	$173,070,990	47,059	$173,734,004
Elderly interest exclusion	75,163	$30,687,228	80,940	$33,284,834
Exempt retirement disability income (under age 65)	37	$171,297	37	$170,951
Exempt tip income	19,418	$71,768,259	20,945	$80,661,372
Exempt income of child taxed to parent	135	$498,424	150	$351,252
Exempt health insurance premiums taxed to employee	139	$563,180	165	$646,073
Student loan repayments taxed to health care professional	435	$1,278,928	462	$1,315,847
Medical care savings account exempt deposits	7,750	$19,419,283	7,817	$19,759,187
First-time homebuyer exempt savings account deposits	256	$706,088	255	$691,899
Family education savings account exempt deposits	4,744	$11,083,019	5,187	$12,361,878
ABLE account exempt deposits	20	$42,190	42	$78,670
Farm and ranch risk management accounts exempt deposits	*	$1,941	*	$1,056
Subtraction to federal taxable social security/Tier 1 railroad retirement	41,878	$187,960,115	43,058	$195,388,439
Subtraction for federal taxable Tier II railroad retirement	3,062	$48,318,083	3,135	$50,097,081
Subtraction for spouse filing joint return: passive loss carryover	44	$272,056	42	$388,522
Subtraction for spouse filing joint return: capital loss adjustment	1,021	$2,205,698	1,146	$3,194,491
Allocation of compensation to spouse	377	$6,849,766	351	$5,835,675
Montana net operating loss carryover	3,538	$335,530,053	3,845	$364,609,113
40% capital gain exclusion on pre-1987 installment sales	37	$166,133	14	$75,280
Business expense of recycled material	118	$327,567	100	$279,218
Sales of land to beginning farmers	*	$27,569	*	$4,377
Larger federal estate and trust taxable distributions	249	$751,486	300	$1,557,038
Wage deduction reduced by federal targeted jobs credit	42	$234,434	59	$559,348
Certain gains recognized by liquidating corporation	*	$188,516	*	$17,361
Other subtractions	4,000	$162,303,303	3,516	$178,548,038
Total Montana Subtractions	249,013	$1,681,426,699	252,470	$1,788,672,051

* Not disclosed due to confidentiality concerns

Montana Individual Income Tax
Deductions Reported on Full-Year Residents' Returns
2016 and 2017

	2016		2017	
	Count	Total	Count	Total
Deductions				
Deductible medical expenses	57,749	$293,717,332	62,282	$307,625,176
Medical insurance premiums not deducted elsewhere	119,445	$445,884,104	120,710	$473,418,359
Long-term care insurance premiums	13,309	$30,987,121	13,020	$30,898,836
Federal Income Tax				
Federal income tax withheld*	284,041	$2,079,268,149	292,337	$2,228,448,744
Federal income tax estimated payments*	53,029	$891,748,134	53,215	$887,518,427
Last year's federal income tax paid (e.g. with return)*	72,620	$795,786,733	69,141	$512,524,941
Federal income tax from previous years*	4,518	$20,685,669	4,771	$23,267,963
Total federal income tax deduction	313,779	$1,325,330,899	321,141	$1,367,118,010
State or local sales tax	450	$441,878	527	$669,560
Local income taxes	417	$125,825	506	$213,412
Real estate taxes	220,880	$491,661,308	225,604	$542,165,526
Personal property taxes	176,536	$58,464,448	179,538	$61,716,979
Other deductible taxes	17,666	$6,342,633	16,412	$6,262,752
Home mortgage interest	166,068	$909,386,335	168,358	$932,109,767
Qualified mortgage insurance premiums	24,647	$29,761,138	13,085	$15,411,102
Investment interest	7,882	$28,383,859	7,761	$29,594,202
Contributions by cash or check	170,477	$502,946,119	171,371	$490,356,062
Contributions other than cash or check	82,231	$148,637,209	82,012	$118,484,126
Carryover of contributions from previous years	3,228	$33,937,186	3,647	$42,384,106
Child and dependent care expenses	591	$1,206,246	530	$1,093,360
Casualty and theft losses	328	$6,744,568	286	$5,112,316
Business Expenses				
Unreimbursed employee business expenses*	61,627	$187,415,856	59,664	$188,650,789
Other business expenses*	147,083	$174,174,795	149,261	$180,605,354
Total business expenses*	169,765	$361,590,651	171,946	$369,256,143
Net deductible unreimbursed business expenses	59,851	$248,206,025	59,645	$250,808,301
Political contributions	11,123	$1,055,050	8,957	$838,756
All other miscellaneous deductions not subject to 2% floor	2,054	$7,242,057	1,893	$5,298,965
Gambling losses	1,614	$21,202,780	1,644	$24,498,818
Total itemized deductions	337,190	$4,591,664,120	345,356	$4,706,078,491
Unallowed itemized deductions (due to income over threshold)	9,770	$63,170,821	10,619	$64,656,342
Allowable itemized deductions	337,190	$4,528,493,299	345,356	$4,641,422,149
Standard deductions	207,795	$846,396,140	206,961	$858,991,800
Total deductions	560,382	$5,374,889,439	568,087	$5,500,413,949

* Items either are part of another line or include another line. They are not part of the total.

Montana Individual Income Tax
Exemptions, Taxable Income, Tax, and Payments Reported on Full-Year Residents' Returns
2016 and 2017

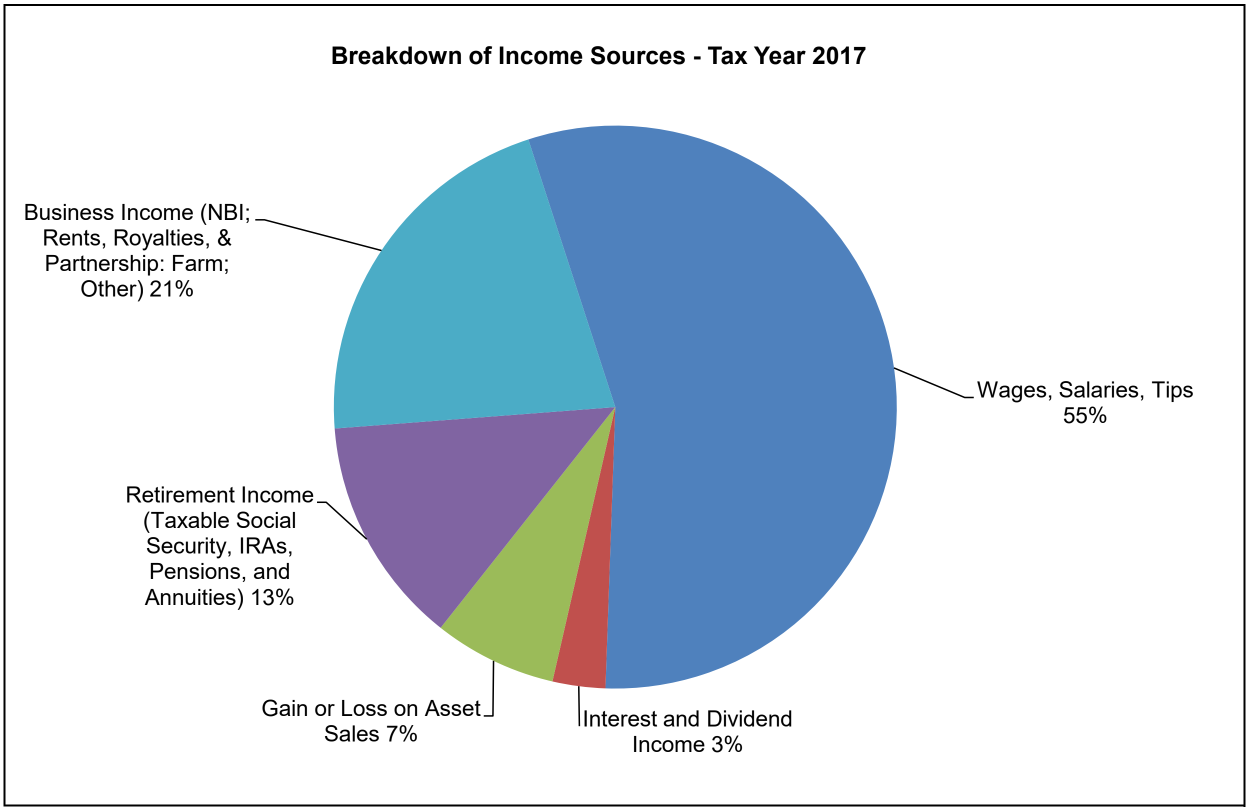
	2016		2017	
	Count	Total	Count	Total
Exemptions *				
Self Exemption		563,809		571,634
Self 65 and Over Exemption		115,259		121,298
Self Blind Exemption		1,039		1,085
Total Taxpayer Exemptions	563,809	680,098	571,634	694,017
Spouse Exemption		86,057		84,011
Spouse 65 and Over Exemption		25,194		25,167
Spouse Blind Exemption		238		188
Total Spouse Exemptions	86,057	111,485	84,011	109,366
Dependent Exemptions	131,402	238,573	132,077	239,621
Total Exemptions	563,801	1,030,156	571,634	1,043,004
Value of Exemptions		$2,451,771,280		$2,503,209,600
Taxable Income				
Federal Adjusted Gross Income	561,634	$25,878,126,882	569,324	$27,428,881,194
+Montana Additions	106,612	$797,821,227	110,424	$830,803,251
-Montana Subtractions	249,013	$1,681,426,699	252,470	$1,788,672,051
-Deductions	560,382	$5,374,889,439	568,087	$5,500,413,949
-Value of Exemptions	563,801	$2,451,771,280	571,634	$2,503,209,600
Montana Taxable Income	472,832	$18,557,477,093	482,649	$19,887,757,453
Tax from Tax Table	472,274	$1,052,796,654	482,091	$1,136,604,107
Capital Gains Credit	77,004	$33,576,490	89,684	$44,758,820
Tax before Credits & Adjustments	468,251	$1,022,467,276	477,045	$1,095,451,716
Tax on Lump Sum Distributions	22	$2,552	26	$8,068
Recapture of Credits Claimed Previously	11	$1,450	11	$4,625
Total Tax		$1,022,471,278		$1,095,464,409
Payments				
Montana income tax withheld from wages	449,699	$830,668,092	456,662	$878,731,702
Tax withheld from mineral royalties	2,693	$1,458,271	2,661	$1,580,071
Tax withheld by pass-through entities	448	$1,050,128	509	$1,077,590
Estimated tax payments	52,296	$233,764,470	52,952	$246,969,777
Extension payments	5,752	$30,761,768	5,914	$32,721,953
Total Payments		$1,097,702,729		$1,161,081,093

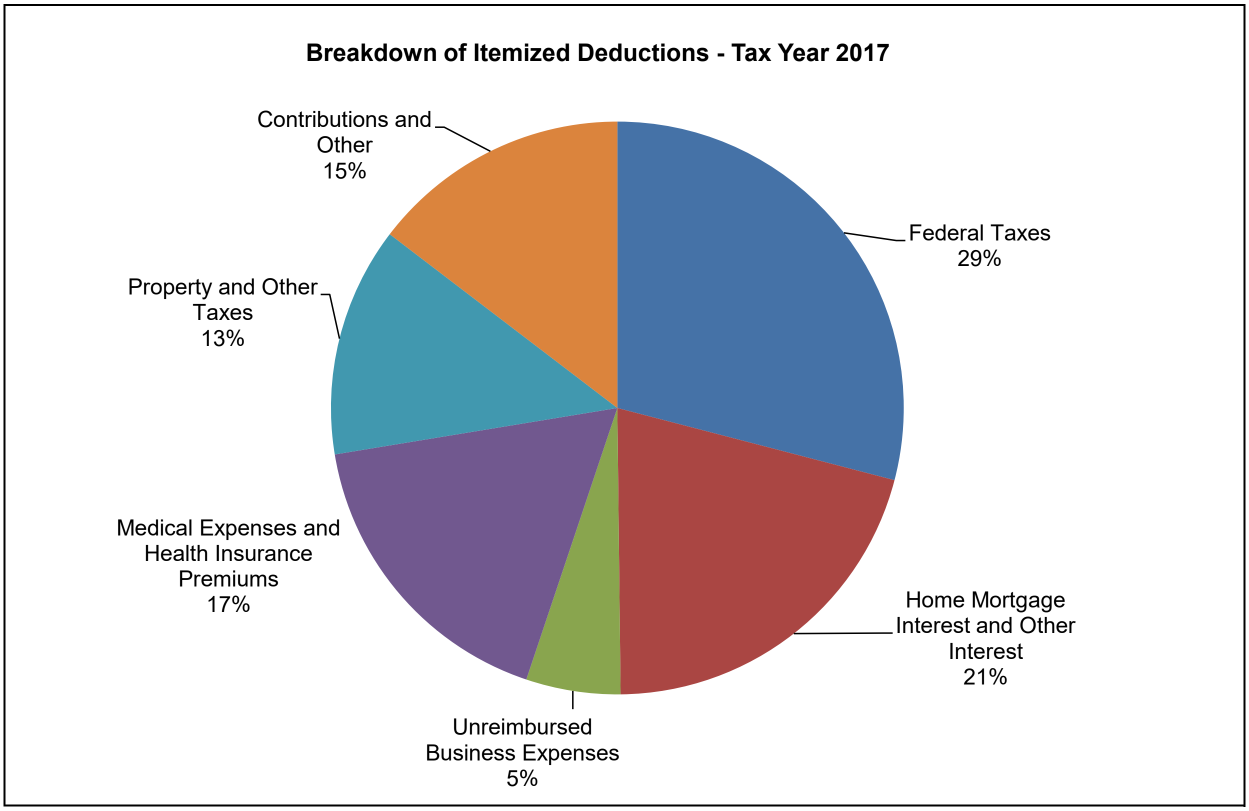
* Taxpayers claim exemptions for themselves and their spouses by checking boxes on the return. The counts for exemptions show the number of returns where the taxpayer claimed at least one exemption for themself, their spouse, or dependents. The totals column shows the number and type of exemptions claimed. For the taxpayer and spouse, the totals column shows the numbers of basic exemptions and extra exemptions for being 65 or over or blind. For dependent exemptions, the count is the number of returns claiming at least one dependent, and the total is the number of dependents claimed.

Montana Individual Income Tax
Credits Reported on Full-Year Residents' Returns
2016 and 2017

	2016		2017	
	Count	Total	Count	Total
Credits				
Non-Refundable and No Carryover				
Other states' income tax credit	14,202	$31,363,032	14,974	$33,636,066
College contribution tax credit	3,597	$322,604	3,561	$369,846
Qualified endowment tax credit	723	$2,708,754	823	$3,157,163
Energy conservation tax credit	10,485	$4,138,900	9,888	$3,970,515
Alternative fuel tax credit	17	$8,632	13	$6,194
Insurance for uninsured Montanan's credit	49	$39,526	57	$51,629
Elderly care tax credit	57	$82,771	59	$91,545
Recycling tax credit	108	$329,343	111	$473,540
Innovation Education Credit	47	$7,601	52	$8,420
Student Scholarship Organization Credit	181	$30,474	171	$27,732
Biodiesel blending/storage tank credit	0	$0	0	$0
Non-Refundable but with Carryover				
Contractor's gross receipts tax credit	650	$5,309,579	668	$5,335,391
Geothermal systems tax credit	177	$195,186	107	$156,820
Alternative energy systems credit	654	$372,227	634	$267,593
Biomass alternative energy systems credit	510	$296,315	398	$184,145
Alternative energy production tax credit	*	$1,843	*	$33,788
Dependent care assistance credit	*	$22,415	*	$143,750
Historic property preservation tax credit	22	$301,456	15	$183,891
Infrastructure user fee credit	14	$646,145	21	$3,341,633
Empowerment zone credit	*	$500	0	$0
Research activities tax credit	*	$795	*	$4,591
Mineral exploration tax credit	*	$465	*	$2,020
Adoption credit	240	$222,618	233	$170,940
Total Non-Refundable Credits	30,221	$46,401,181	30,355	$51,617,212
Refundable Credits				
Elderly homeowner/renter tax credit				
Claimed with Income Tax Return	13,230	$6,510,107	13,679	$6,949,653
Claimed without Income Tax Return	3,278	$1,426,062	2,883	$1,274,394
Emergency lodging credit	*	$2,030	21	$9,841
Unlocking state lands credit	*	$1,973	*	$1,973
Total Refundable Credits	13,244	$6,514,110	13,704	$6,961,467
Total Credits	42,322	$52,915,291	42,986	$52,925,106

* Not disclosed due to confidentiality concerns


Breakdown of Income Sources - Tax Year 2017
Business Income (NBI; Rents, Royalties, & Partnership: Farm; Other) 21%
Wages, Salaries, Tips 55%
Retirement Income (Taxable Social Security, IRAs, Pensions, and Annuities) 13%
Gain or Loss on Asset Sales 7%
Interest and Dividend Income 3%


Breakdown of Itemized Deductions - Tax Year 2017
Contributions and Other 15%
Federal Taxes 29%
Property and Other Taxes 13%
Medical Expenses and Health Insurance Premiums 17%
Home Mortgage Interest and Other Interest 21%
Unreimbursed Business Expenses 5%

The following tables show Montana adjusted gross income, deductions, taxable income and tax liability by decile group for full-year Montana residents. Each decile is 10 percent of the population of full year resident returns, sorted by adjusted gross income. Group 1 is the 10 percent with the lowest incomes, while group 10 is the 10 percent with the highest incomes. In these tables, married couples who file separate returns on the same form are counted as two returns, and their income and tax are counted separately. Non-residents and part-year residents are not included because their tax depends on the fraction of income that is apportioned to Montana, which varies widely for these individuals.

Deciles of Montana Adjusted Gross Income
Full-Year Residents
2016 and 2017

	2016				2017			
Decile Group	Returns	Income Range	Montana Adjusted Gross Income		Returns	Income Range	Montana Adjusted Gross Income	
			$ million	% of total			$ million	% of total
1	56,380	less than $4,231	-$642.6	-3%	57,163	less than $4,450	-$669.4	-3%
2	56,381	$4,231 to $10,228	$408.6	2%	57,163	$4,450 to $10,716	$434.3	2%
3	56,381	$10,229 to $16,328	$747.2	3%	57,164	$10,717 to $17,015	$791.6	3%
4	56,381	$16,329 to $22,847	$1,102.3	4%	57,163	$17,016 to $23,814	$1,166.0	4%
5	56,381	$22,848 to $29,857	$1,481.2	6%	57,164	$23,815 to $31,086	$1,564.2	6%
6	56,381	$29,858 to $38,141	$1,912.0	8%	57,163	$31,087 to $39,638	$2,017.4	8%
7	56,381	$38,142 to $47,919	$2,415.4	10%	57,163	$39,639 to $49,741	$2,543.9	10%
8	56,381	$47,920 to $61,124	$3,050.9	12%	57,164	$49,742 to $63,414	$3,209.0	12%
9	56,381	$61,125 to $85,930	$4,041.7	16%	57,163	$63,415 to $89,445	$4,261.2	16%
10	56,381	more than $85,930	$10,477.7	42%	57,164	more than $89,445	$11,152.9	42%
All	563,809		$24,994.5		571,634		$26,471.0	

Deductions by Decile Group
Full-Year Residents
2016 and 2017

	2016					2017				
Decile Group	% Returns Itemize	Itemized Deductions		Standard Deductions		% Returns Itemize	Itemized Deductions		Standard Deductions	
		$ million	average	$ million	average		$ million	average	$ million	average
1	34%	$170.1	$8,752	$87.7	$2,374	36%	$176.6	$8,581	$86.9	$2,374
2	30%	$114.0	$6,675	$90.9	$2,312	31%	$117.2	$6,650	$92.6	$2,342
3	38%	$167.1	$7,729	$102.5	$2,949	38%	$163.4	$7,479	$107.7	$3,049
4	40%	$187.2	$8,299	$133.7	$3,953	40%	$192.2	$8,406	$140.4	$4,093
5	46%	$228.4	$8,880	$142.9	$4,660	46%	$238.1	$9,124	$147.5	$4,749
6	60%	$317.8	$9,378	$117.1	$5,204	63%	$341.0	$9,543	$114.4	$5,340
7	79%	$486.8	$10,881	$74.8	$6,427	80%	$514.4	$11,195	$74.2	$6,612
8	87%	$632.7	$12,885	$51.7	$7,096	88%	$656.4	$13,116	$50.6	$7,108
9	92%	$803.9	$15,496	$32.5	$7,217	92%	$831.2	$15,748	$32.0	$7,306
10	97%	$1,420.6	$26,021	$12.7	$7,101	97%	$1,410.8	$25,480	$12.8	$7,117
All	60%	$4,528.5	$11,994	$846.4	$3,792	61%	$4,641.4	$12,041	$859.0	$3,857

Deductions as Percent of Montana Adjusted Gross Income
Full-Year Residents
2016 and 2017

	2016			2017		
Decile Group	Itemized Deductions	Standard Deductions	All	Itemized Deductions	Standard Deductions	All
1	-37%	-50%	-40%	-37%	-45%	-39%
2	90%	32%	50%	85%	31%	48%
3	58%	22%	36%	54%	22%	34%
4	42%	20%	29%	41%	20%	29%
5	34%	18%	25%	33%	17%	25%
6	27%	16%	23%	27%	15%	23%
7	25%	15%	23%	25%	15%	23%
8	24%	13%	22%	23%	13%	22%
9	22%	10%	21%	21%	10%	20%
10	14%	5%	14%	13%	5%	13%
All	22%	20%	22%	21%	20%	21%

Taxable Income and Tax
Full-Year Residents
2016 and 2017

	2016						2017					
Decile Group	Taxable Income			Tax Liability			Taxable Income			Tax Liability		
	$ million	Average	% of Total	$ million	Average	% of Total	$ million	Average	% of Total	$ million	Average	% of Total
1	$0.3	$6	0%	$0.0	$0	0%	$0.5	$8	0%	$0.0	$0	0%
2	$103.7	$1,839	1%	$1.3	$23	0%	$116.0	$2,029	1%	$1.5	$26	0%
3	$317.5	$5,631	2%	$6.3	$111	1%	$344.2	$6,021	2%	$6.9	$121	1%
4	$582.9	$10,338	3%	$16.4	$291	2%	$629.2	$11,007	3%	$18.1	$317	2%
5	$900.2	$15,967	5%	$33.3	$591	3%	$968.9	$16,950	5%	$36.8	$644	3%
6	$1,255.8	$22,273	7%	$55.8	$989	5%	$1,335.2	$23,358	7%	$60.3	$1,054	6%
7	$1,617.7	$28,692	9%	$79.9	$1,418	8%	$1,720.5	$30,098	9%	$85.9	$1,503	8%
8	$2,116.3	$37,535	11%	$113.6	$2,015	11%	$2,245.6	$39,284	11%	$121.3	$2,122	11%
9	$2,932.5	$52,012	16%	$168.7	$2,993	17%	$3,118.6	$54,556	16%	$180.1	$3,151	16%
10	$8,730.6	$154,850	47%	$547.1	$9,704	54%	$9,409.1	$164,598	47%	$584.4	$10,224	53%
All	$18,557.5	$32,914		$1,022.5	$1,813		$19,887.8	$34,791		$1,095.5	$1,916	

Tax as Percent of Adjusted Gross Income
Full-Year Residents
2016 and 2017

	2016			2017		
Decile Group	Montana Adjusted Gross Income	Tax Liability	Tax / Income	Montana Adjusted Gross Income	Tax Liability	Tax / Income
	$ million	$ million	%	$ million	$ million	%
1	-$642.6	$0.0	0.0%	-$669.4	$0.0	0.0%
2	$408.6	$1.3	0.3%	$434.3	$1.5	0.3%
3	$747.2	$6.3	0.8%	$791.6	$6.9	0.9%
4	$1,102.3	$16.4	1.5%	$1,166.0	$18.1	1.6%
5	$1,481.2	$33.3	2.3%	$1,564.2	$36.8	2.4%
6	$1,912.0	$55.8	2.9%	$2,017.4	$60.3	3.0%
7	$2,415.4	$79.9	3.3%	$2,543.9	$85.9	3.4%
8	$3,050.9	$113.6	3.7%	$3,209.0	$121.3	3.8%
9	$4,041.7	$168.7	4.2%	$4,261.2	$180.1	4.2%
10	$10,477.7	$547.1	5.2%	$11,152.9	$584.4	5.2%
All	$24,994.5	$1,022.5	4.1%	$26,471.0	$1,095.5	4.1%

Business Structure and Taxation

A business's legal ownership structure generally determines how income from the business is taxed. Business organization is a matter of state law, and a business operating in Montana may be organized under the provisions of the laws of Montana (generally Title 35, Montana Code Annotated) or of the laws of another state. States vary somewhat in the options for business organization they allow and in the details of particular business structures.

While tax considerations may affect a business's choice of ownership structure, there are other factors that may have a larger influence. Different business structures give the owners different types of protection from or exposure to the business's legal and financial liabilities. They have different mechanisms for decision making and control of the business's operations. They have different arrangements for sharing of income, expenses, risks and rewards among the owners. And, they offer different levels of privacy or transparency of ownership. How a business is organized can also affect its ability to access capital markets. Most corporations and some types of partnerships can raise funds by issuing new shares, and existing shares can be bought and sold without requiring the other owners' consent. With other business structures, buying and selling ownership interests or raising funds by bringing in new owners may require the other owners' consent.

For taxation, the IRS code puts all businesses in one of three categories, and Montana law generally requires a business to be in the same category for state taxation as it is for federal taxation.

Informally organized sole proprietor businesses are not treated as an entity separate from the owner for income tax reporting purposes. The owner of a sole proprietor business must be an individual or a married couple. Some formally organized businesses with a single owner are not sole proprietor businesses and are treated as separate from the owner for income tax reporting purposes. These businesses are called disregarded entities and are subject to filing a Montana information return and income tax withholding paid on behalf of the owner. The disregarded entity's income is still reported on the owner's tax return and is taxed as part of the owner's income. If the disregarded entity pays income tax on behalf of the owner, the owner can claim the payment as a refundable credit.

Partnerships, limited liability companies, and other unincorporated businesses with more than one owner generally are treated as pass-through entities. A corporation with no more than 100 shareholders, with a single class of stock, and with no shareholders that are another business entity or a nonresident alien, may elect to be treated as a pass-through entity. Such a corporation is known as an S Corporation, because its taxation is laid out in Subchapter S of Chapter 1 of the IRS code.

For a pass-through entity, there is no tax on income at the business entity level. The entity calculates its net income and each owner's share of that net income. The owners must include that income (or loss) in the calculation of their taxable income. An owner's income from a pass-through is a share of the business's income, not the payments the owner receives from the business. If a pass-through entity retains part of its income to finance expansion or other investment, each owner is taxed on his or her share of the retained income, and the accounting value of each ownership interest is increased by the owner's share of the retained income. If the pass-through pays out more than its annual net income, the excess is treated as a return of a portion of the owner's investment. It is not taxed, and the accounting value of each ownership interest is reduced by the owner's share of the excess distribution.

A pass-through entity is required to file an annual information return showing the calculation of its net income or loss and the distribution of that income or loss to owners. The owners are then responsible for reporting this income on their tax returns and including it in the calculation of their taxable income. If a pass-through entity has a nonresident or second-tier pass-through entity owner, then the pass-through must include the owner in a composite return, withhold income tax on behalf of the owner, or obtain a waiver of these requirements.

A corporation that does not meet the requirements to be treated as a pass-through entity, or that does not choose pass-through treatment, is taxed on income at the business entity level. The corporation calculates its net income and is taxed on it at the corporate income tax rate. The corporation's income is not directly attributed to the owners. A corporation's owners include dividends they receive in the calculation of their taxable incomes. A corporation may pay dividends that are more or less than its net income. If it does, there is no adjustment to the accounting value of individual shares. This allows a corporation to retain profits for reinvestment without the shareholders being taxed on those profits.

The following table shows characteristics of businesses falling into each of the four business tax categories.

Business Structure and Taxation				
	Sole Proprietor	**Pass-Through Entity (S Corporation or Partnership)**	**C Corporation**	**Disregarded Entity**
Legal Business Organization	Informal	Partnership, Limited Liability Company (LLC), Corporation, Limited Partnership, etc.	Corporation	Single Member LLC, etc.
May Be Owned By	One Individual or Married Couple	Individuals or Other Business Entities	Individuals or Other Business Entities	Individuals or Other Business Entities
Business Income and Owner's Income	The business net income is all attributed to the owner.	The business calculates its net income, and this income is attributed to the owners.	The business calculates its net income. Owners' income is dividends received.	The business net income is all attributed to the owner.
Distribution of Income to Owners	The business net income is the owners' income from the business.	Distributions to owners need not equal businesses' current net income.	Business pays dividends to shareholders. Dividends need not equal businesses' current net income.	Distribution to owner need not equal businesses' current net income.
Taxation	Owner reports income from business as part of income subject to individual income tax	No tax at the entity level. Owners responsible for tax on income attributed to them.	Business net income subject to corporation income tax. Owners taxed on dividends.	Entity is ignored. Businesses' income is taxed as owner's income.
Reporting	The business receipts and costs are reported on Schedule C of the owners' federal tax return (Schedule F for a farm), and net income is reported on Line 12 for Business Income or Loss (Line 18 for Farm Income or Loss) of the state return.	The business files federal and state information returns. Federal return shows receipts and costs and both show income, deductions, and credits passed through to owners. Owners report their share of net business income from the pass-through as business income (Schedule E and Line 17 of the tax return for individuals). If the business receives dividends, capital gains, or other passive income, owners report those separately on the appropriate return lines.	The business files federal and state corporate income tax returns and a federal information report, Form 1099-DIV, for each owner who received at least $10 of dividends. Owners report dividends received on their tax returns (Line 9 of state return for individuals).	Income is reported on owner's return. Information return required if owner is a non-resident or another business.

Business Structure, Tax Administration, and Compliance

Taxation of business income can be complicated when a business operates in more than one taxing jurisdiction and when one business entity is partly or completely owned by another. When a business operates in more than one taxing jurisdiction, it is necessary to decide how much of the business's income is taxable by each jurisdiction. When one business entity owns another or two businesses have a common owner, it can be necessary to decide how much of the common income is due to each business. When affiliated businesses operate across multiple jurisdictions, the complications are compounded.

A general principle that most U.S. states and most countries follow is that business income should be taxable by the jurisdiction where the business activity that created the income took place and should not be taxable by other jurisdictions. This is often called the source principle of income taxation.[1] When a business operates

1 The source principle of income taxation contrasts with the destination principle of consumption taxation. U.S. states and most countries follow the principle that taxes on consumptions, such as sales taxes, should be levied by the jurisdiction where the goods or services are used

in more than one taxing jurisdiction, each must decide how much of the business's income has its source in that jurisdiction. For example, suppose a company harvests timber and mills it into lumber in Montana and sells the lumber in North Dakota. The company receives all its gross income in North Dakota, and pays most of its costs in Montana. Its net income, which is the basis of taxation in both Montana and North Dakota, is due to the combined operation in both states. Each state decides how much of the combined net income to tax through a process called *apportionment.* Each state uses a formula to determine an *apportionment factor,* the portion of the company's business income[2] to attribute to operations in the state. Montana uses the equally-weighted three-factor apportionment formula where the apportionment factor is the average of the proportions of a company's property, payroll, and sales in a state. Other states use a range of formulas, with some placing more weight on one factor and less, or no, weight on the others.

If lumber production in Montana and lumber sales in North Dakota were separate, unrelated businesses, there would be no need for apportionment. The lumber production company's net income would be the difference between its receipts from selling lumber wholesale and its costs of harvesting trees and milling lumber. This net income would be taxable by Montana. The lumber sales company's net income would be the difference between its receipts from retail lumber sales and its costs of buying the lumber wholesale and operating its lumber yards. This net income would be taxable by North Dakota.

If the two companies are *affiliates*, such as two separate legal entities both owned by a third company, the situation is more complicated. Apportionment is still needed because wholesale lumber sales from the mill in Montana to the yards in North Dakota are not arms-length transactions. The *transfer prices* at which the lumber mill sells to the lumber yards are not determined in a market and do not necessarily reflect the lumber's true value. From the point of view of the parent company, these transfer prices are irrelevant. The mill's revenue from wholesale sales and the lumber yard's expenses for wholesale purchases cancel each other out. The parent company's net income is the difference between the revenue from retail lumber sales and the costs of timber harvesting, lumber milling, and lumber yard operations.

Transfer prices do matter to the states. If the lumber mill charges high prices to the lumber yards, its Montana profits will be higher and the lumber yards' North Dakota profits will be lower. If the mill charges low prices, its Montana profits will be lower and the lumber yards' North Dakota profits will be higher.

Montana law addresses this problem through *combined reporting*. Affiliated companies that are not engaged in completely separate businesses are required to file a single, combined return and to apportion the group's income. The Montana timber harvesting and lumber milling company, the North Dakota lumber yard company, and their parent company would file a combined return and should pay the same Montana taxes as if they were a single company.

Another complication can arise when affiliated companies are pass-through entities and there is a *tiered ownership* structure, with a company that is actually conducting business being owned by a second-tier pass-through entity, which may be one of several owned by a third-tier pass-through entity, which may be a partnership owned by several fourth-tier pass-through entities, and so on. As income is passed through this chain to the individuals who are the ultimate owners, its original source may be ignored. For example, a person in New York or California who is a partner in a company that owns other companies may be unaware that part of their income from this partnership ultimately comes from business operations in Montana. In that case, they are likely to overlook their obligation to pay income tax in Montana.

Montana law tries to address this problem by requiring pass-through entities with out-of-state owners either to have the out-of-state owners agree to file Montana tax returns, to withhold Montana tax for the out-of-state owners, or to file a composite return and pay Montana tax on behalf of its owners.

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rather than by jurisdictions where they are made or sold.

2 Income that is not from a company's normal line of business, such as income from sale of some of a company's assets, generally is assigned to the state where the assets are located rather than being apportioned.

Montana law requires individual corporations and affiliated groups to report world-wide income and apportion a share to Montana, with one exception. A group of affiliated companies may make what is called a *water's-edge election.* When a group makes this election, it is only required to include affiliates in its combined report if the primary company owns at least half the stock and at least 20 percent of the affiliate's payroll and property is in the United States, the affiliate is one of several types of companies defined in federal law that only engage in international trade, the affiliate has gains or losses from selling U.S. real estate, or the affiliate is incorporated in one of the countries listed as tax havens in section 15-31-322(1)(f), MCA. A corporate group that makes the water's edge election is taxed at a rate of 7 percent rather than the normal rate of 6.75 percent.

Abusive tax shelters are arrangements where taxpayers mischaracterize either income or gains and losses in order to avoid taxes. While nothing about pass-through entities or tiered business ownership creates abusive tax shelters, individuals and corporations wanting to evade taxes have used the complexity that tiered ownership can create to try to hide or mischaracterize income.

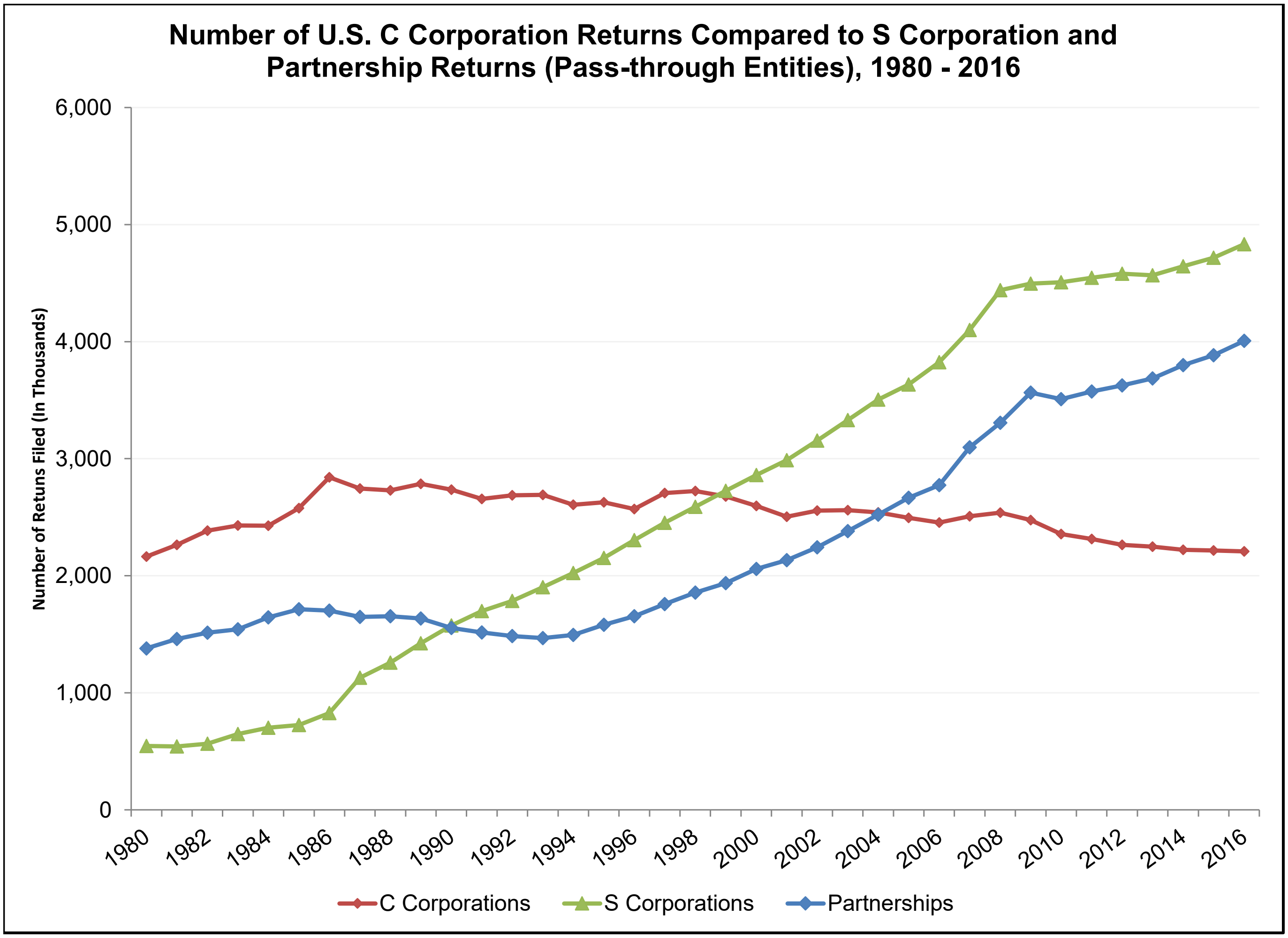
Some abusive tax shelters involve pretending that monetary payments are a loan or that in-kind compensation is actually a business investment. Others involve creating transactions with offsetting paper gains and losses and then recognizing the losses for tax purposes while claiming that recognition of the gains can be indefinitely deferred. In others, the claim is made that the losses were incurred by a taxable entity while the gains belong to an entity that is not subject to taxes in the United States. Some types of abusive tax shelters make use of complicated, multi-tiered business structures either to try to hide the mischaracterization of income or to shuffle gains and losses between related entities and then claim that they are not related.

For example, one scheme involves creating a series of tiered business entities organized under the laws of several countries, with each passing its income to the next in line and the final entity paying the income to the owner but mischaracterizing it as a loan. The purpose of the tiered business structure in this case is just to make it too hard to track the money. In another scheme, the taxpayer sets up three business entities. Two entities engage in offsetting financial transactions, such as buying and selling offsetting futures contracts. The third is set up in another country. When the two contracts are closed out, one will have a gain and the other will have an equal loss. The taxpayer recognizes the loss and uses it to offset other income. The entity with the gain is sold, at a nominal price that does not reflect the value of the gain on its futures contracts, to the non-U.S. entity, and then the taxpayer claims that the gain is not subject to U.S. taxes.

U.S. courts have consistently ruled that these types of sham transactions with no economic purpose other than evading taxes should be ignored for U.S. tax purposes.

Growth of Pass-Through Entities

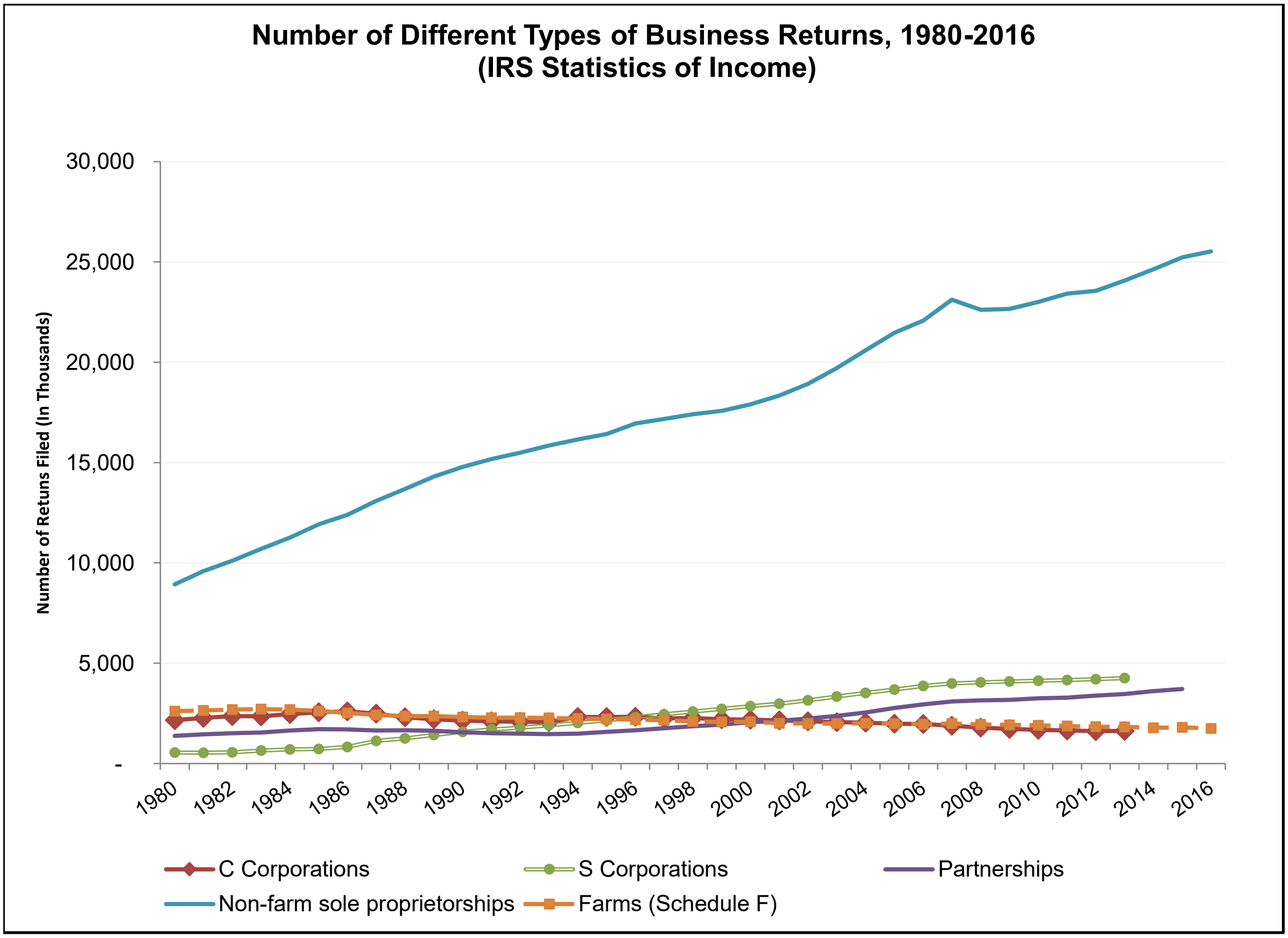
Increasingly, in Montana and nationwide, business and investment activities are being conducted by "pass-through entities." The graph below shows the number of returns filed with the IRS by C Corporations versus those filed by pass-through entities (partnerships and S Corporations) from 1980 through 2016 (the graphs and history in this section are from the Internal Revenue Service's annual Data Book and other Statistics of Income Division reports).



Over time Congress has modified the rules governing pass-throughs, particularly S Corporations, making those business structures more attractive for business purposes. For example, the number of permitted shareholders has been expanded from the original 10 in 1958 to 35 in 1982, 75 in 1996, and 100 in 2004, where it remains today.

The graph on the next page shows growth over the same period, 1980–2016, of all types of business organizations, including non-farm sole proprietorships, S Corporations, partnerships, and farms filing Schedule F.

As can be seen from the graph, non-farm sole proprietorships are the most common type of business entity in the United States based upon the number of returns filed. The number of non-farm sole proprietorships has grown substantially – from 9 million in 1980 to just over 25.5 million in 2016.



Sole proprietorships, just as the name suggests, are businesses with a single owner and are a familiar sight on many main streets in Montana. The Montana Department of Commerce in its publication, *Economic and Demographic Analysis of Montana,* December 2007, reported that over 60 percent of Montana businesses are sole proprietorships without any employees. The owner of a sole proprietorship will record his or her income on the state individual income tax form, Form 2 on line 12 as Business income (or loss), and will attach a copy of federal Schedule C (or C-EZ), which has been filed with the taxpayer's federal tax return.

If the business owner has a farm or ranch operation that is operated as a sole proprietorship, the taxpayer reports his or her income on line 18 of the state individual income tax form (Farm income or (loss)), and attaches a copy of federal Schedule F, which has been filed with the taxpayer's federal form. The number of farms filing under Schedule F is also shown on the graph. The total number of farms in the United States filing Schedule F went from 2.6 million in 1980 to 1.75 million in 2016. However, it should be noted that farms can also operate as partnerships or be incorporated as S or C Corporations.

During the same period, the number of C Corporation returns declined, going from 2.2 million corporations in 1980 to 1.63 million in 2013. One thing to note is that C Corporations in Montana seem to vary greatly in terms of size – there are large or very large businesses which engage in operations across many states and even countries, but there are also smaller firms that engage in agricultural operations, are main street businesses, or regional operations. Some of these corporations may have been incorporated before the S Corporation structure was available; others may have been incorporated as C Corporations in order to be better positioned to access capital markets, or for one or more of the advantages that C Corporation status provides.

The number of businesses that filed as S Corporations has also grown very rapidly during the same time. The IRS data shows the number went from 545,000 in 1980 to over 4.2 million in 2013, an annual average growth rate of 6.6 percent. Partnerships grew more slowly – increasing from 1.4 million in 1980 to 3.7 million in 2015.

Although not shown on the graph, less common types of pass-through entities also increased over the last three decades. These include real estate investment trusts (REITs) and regulated investment companies (RICs), better known as mutual funds, going from 1,691 returns in 1980 to 17,630 returns in 2012.

Businesses of all sizes can be C Corporations or pass-through entities. Sole proprietor businesses generally are small. For 2013, the IRS reports that average receipts were $4.6 million for C Corporations, $1.5 million for partnerships, and $1.6 million for S Corporations, but only $56,000 for sole proprietor businesses. Many sole-proprietor businesses are part-time or a sideline for the owner. For 2017, 90% of taxpayers whose Montana income tax returns showed income or loss from a sole-proprietor business reported more income from other sources.

Ownership, Income, Deductions and Credits Reported on Montana Pass-Through Returns

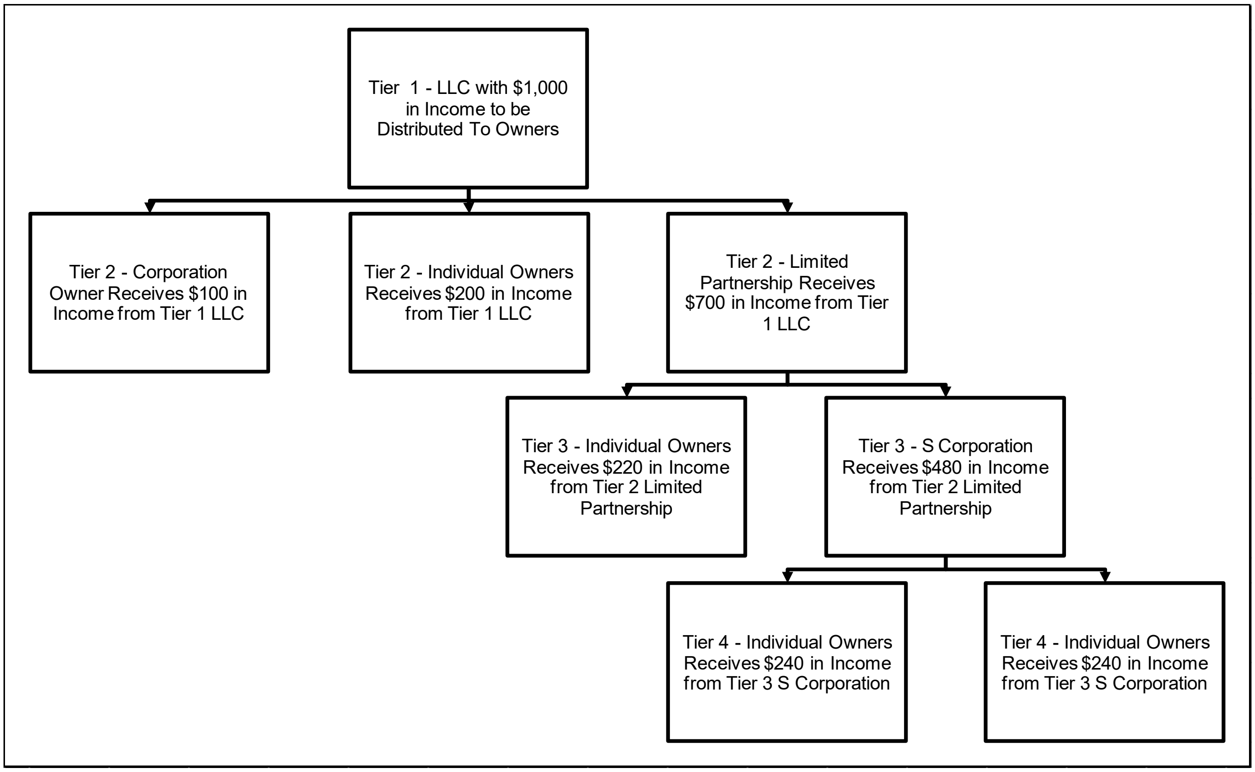
Pass-through entities include partnerships; S Corporations; limited liability companies (LLCs); real estate investment trusts (REITS); regulated investment trusts (RITs), better known as mutual funds; and others. Partnerships are an old and familiar business entity, but S Corporations are less so. The S Corporation rules were enacted in 1958 and permit a corporation and its shareholders to elect to be taxed at one level.

The most common type of pass-through entity today is the limited liability company, or LLC. LLCs are actually a creation of the states since state law generally governs business structure. The first LLC statute was enacted in Wyoming in 1977 and now all states and the District of Columbia have LLC statutes. However, for federal tax purposes, federal law governs the tax treatment (states generally follow the federal treatment). For taxation purposes LLCs are generally treated as partnerships, although LLCs with two or more members can elect to be treated as S Corporations. Any single member LLC can elect to be treated as a sole proprietorship if the single member is an individual; if the single member is a corporation, then the LLC is treated as a branch by the IRS. The taxpayer's state filing must be consistent with its federal filing, so if a business filed as an S Corporation at the federal level, it must file as an S Corporation at the state level.

A pass-through entity is not taxed itself. Instead, its income and expenses are reported on the tax returns of the owners. The owners can be corporations, individuals, other pass-through entities, or a mix of all of them. When pass-through entities are owned by other pass-through entities, a tiered business structure is created.

Tiered structures add complexity to tax administration because the taxpayer may be quite remote from the entity doing business in the state. Because pass-through entities can have a corporation, an individual, and/or another pass-through entity as a partner, owner or shareholder, they represent a challenge for tax administration. The diagram on the following page shows how complex a set of ownership, or partnership, relationships can become.

Pass-Through Entities



Pass-through entities classified as S Corporations or partnerships with Montana source income are required to file an information return each year. If this entity has a partner, shareholder, member or other owner who is a non-resident individual, foreign C Corporation, or a pass-through entity with an owner, or shareholder, that is a non-resident individual or foreign C Corporation, the pass-through entity is also required to file with the state an agreement with the individual non-resident to timely file a Montana return, pay taxes and be subject to personal jurisdiction of the state with respect to the income from a pass-through. If this agreement is not met, the pass-through entity must in all subsequent tax years withhold the appropriate amount and remit the tax payment directly to the state (15-30-3313, MCA).

The pass-through information returns show the total amounts of various types of income, deductions, and credits allocated to the owners and the amount distributed to each owner. Pass-through entities operating in more than one state apportion part of their income to Montana using the same apportionment formula as C Corporations. Pass-through returns show the Montana source income allocated to each owner and indicate whether each owner is an individual or another business entity.

Owners of pass-through entities taxed as partnerships may be either individuals or business entities. Shares of S Corporations can only be owned by individuals, electing small business trusts or employee stock ownership plans. However, some types of pass-through entities that can be owned by other business entities can elect to be treated as S Corporations for tax purposes. The table to the right shows the number of owners associated with Montana's pass-throughs broken down by individuals and business entities. Based upon information provided in each pass-through's tax forms, this table also provides a breakdown of pass-throughs based on the residency status of the owner.

Shares of Pass-Through Owners by Residency Status

Type of Owner	Number	%
Resident Individuals	86,591	23%
Nonresident Individuals	179,238	48%
Montana Business Entities	5,880	2%
Non-Montana Business Entities	100,575	27%
Total	372,284	100%

In 2016, 372,284 owners were associated with the 61,627 pass-throughs filing information returns in Montana. Of the approximately 372,000 owners, 23 percent reported being residents of Montana. Non-resident individuals are the largest group of Montana's pass-through owners, with 179,238 reported owners. Just under 5,900 Montana business entities were listed as owners of pass-throughs according to informational tax returns. More than 100,000 non-Montana business entities were owners of pass-throughs with Montana source income. Overall, individuals comprised 71 percent of the owners associated with Montana's pass-throughs, which is a slight decrease from the 74 percent in 2014

The following table shows owner information from the same group of pass-through returns as in the previous table, but splits the ownership data into multi-state, as well as S Corporation and partnership, status.

Montana Pass-Through Owners by Residency Status and Pass-Through Type

	S Corporations				Partnerships			
	Montana		Multi-State		Montana		Multi-State	
Type of Owner	Owners	%	Owners	%	Owners	%	Owners	%
Resident Individuals	34,396	91%	6,788	18%	36,780	68%	8,627	4%
Nonresident Individuals	2,906	8%	25,766	70%	10,829	20%	139,737	57%
Montana Business Entities	414	1%	323	1%	3,799	7%	1,344	1%
Non-Montana Business Entities	109	0%	4,118	11%	2,979	5%	93,369	38%
Total	37,825	100%	36,995	100%	54,387	100%	243,077	100%

Net income from a pass-through entity's business operations is usually allocated to the owners as ordinary business income. Individual owners report this income on Schedule E of their federal tax returns and then report income from Schedule E on Line 17 of the Montana tax return. Income the pass-through entity receives from passive investments or the sale of assets is allocated to the owners as that type of income, and owners report it on the corresponding lines of their tax returns. For example, if a pass-through entity receives $1,000 of interest and allocates it equally to its 10 owners, who are Montana individuals, each owner should report the $100 of interest on Line 8a of their Form 2.

The next table shows the number of returns, types of income, Montana adjustments to income, and deductions that were reported on the pass-through informational returns in 2016.

Montana-Source Income Passed Through To Owners, 2016	S Corporations		Partnerships	
	Montana	Multi-State	Montana	Multi-State
Returns	22,410	10,260	17,737	11,220
Income Items				
Salaries and Other Fixed Payments to Owners	$0	$0	$145,273,048	$34,756,837
Ordinary Business Income	$1,361,437,740	$631,065,698	$214,926,675	$187,620,063
Rental Income				
Real Estate	$22,316,546	$9,713,489	$137,841,644	$20,555,598
Other	$295,698	$17,331,334	$19,617,770	$9,115,652
Interest	$20,124,997	$9,866,348	$27,367,150	$23,666,188
Dividends	$10,053,579	$5,810,594	$18,801,762	$20,049,671
Royalties	$5,335,069	$7,549,679	$26,206,202	$25,203,784
Capital Gains	$222,456,097	$39,412,545	$29,873,059	$7,767,733
Gains Taxed as Ordinary Income	$139,990,174	$53,256,255	$153,460,042	$54,703,629
Other Income	$3,647,098	$2,474,484	$19,585,074	$7,079,303
Total	$1,785,656,998	$776,480,427	$792,952,426	$390,518,459
Montana Additions to Federal Income				
Interest on Non-Montana Municipal Bonds	$1,805,235	$414,189	$2,967,050	$669,398
State and Local Income Taxes	$641,552	$1,430,264	$499,923	$1,531,996
Other	$429,545	$1,171,618	$114,991,557	$6,017,363
Total	$2,876,332	$3,016,071	$118,458,530	$8,218,757
Montana Subtractions from Federal Income				
Interest on Federal Bonds	$949,503	$5,646,329	$159,033	$522,335
Purchases of Recycled Materials	$345,587	$123,801	$18,483	$0
Other	$129,312,005	$39,369,025	$30,342,402	$8,706,919
Total	$130,607,095	$45,139,155	$30,519,918	$9,229,254
Deductions				
Expensing of Capital Purchases	$239,607,689	$56,145,017	$63,146,186	$33,557,300
Contributions	$21,553,092	$14,656,947	$14,597,293	$25,519,545
Interest on Funds Borrowed to Make Investments	$18,238,382	$363,505	$5,216,428	$2,579,100
Other	$55,996,728	$4,749,751	$64,637,668	$86,048,867
Total	$335,395,891	$75,915,220	$147,597,575	$147,704,812
Total Montana Source Income	**$1,322,530,344**	**$658,442,123**	**$733,293,463**	**$241,803,150**

When there is tiered ownership, meaning one pass-through entity is a full or part owner of another, both entities will include the income the first-tier entity allocates to the second-tier entity in their returns. Because of this, the combined Montana source income of pass-through entities in the state are less than the combined amounts reported on the returns. The table below has the Montana source income reported on pass-through returns and the source income after second-tier entity income is removed for tax years 2014, 2015 and 2016.

Montana Source Income Before and After Second-Tier Income Is Removed

Tax Year	Montana Source Income	Tier 2 Income	Net Montana Source Income
2014	$3,437,429,157	$328,070,300	$3,109,358,857
2015	$3,149,660,193	$220,997,348	$2,928,662,845
2016	$3,179,714,842	$265,782,912	$2,913,931,930

When a pass-through entity does something that is eligible for a tax credit, the credit is usually allocated to the owners. Owners then claim their share of the credit on their tax returns. However, sometimes owners may not be able to claim a credit that is allocated to them. For example, some credits can only be claimed by individuals, so a corporation that owns part of a pass-through entity would not be able to claim those credits.

Some credits can only be used to reduce the current year's tax liability, so owners with no taxable income in the current year would not be able to claim these credits. Because of this, the credits actually claimed on owners' tax returns can be less than the credits reported on pass-through returns.

The next table shows credits reported on pass-through entity returns for 2016. Credits actually claimed by owners are included in the credits claimed against individual income tax and corporation income tax.

Tax Credits Passed Through To Owners, 2016

	S Corporations		Partnerships	
Credit	**Montana**	**Multi-State**	**Montana**	**Multi-State**
Dependent Care Credit	$0	$0	$0	$0
College Contribution Credit	$15,555	$4,121	$3,242	$609
Insurance for Uninsured Montanans Credit	$27,321	$1,590	$900	$0
Credit for Investment in Recycling Equipment	$294,589	$25,761	$0	$0
Alternative Energy Production Credit	$0	$23,734	$0	$0
Contractor's Gross Receipts Credit	$2,543,604	$1,927,912	$174,546	$139,092
Alternative Fuel Credit	$0	$0	$0	$0
Infrastructure Users Fee Credit	$0	$310,100	$35,547	$0
Historic Building Preservation Credit	$0	$0	$0	$0
Mineral Exploration Credit	$0	$0	$0	$0
Empowerment Zone Credit	$0	$0	$0	$0
Biodiesel Blending Credit	$0	$0	$0	$0
Innovative Education Program Credit	$0	$0	$0	$0
Student Scholarship Organization Credit	$0	$0	$0	$0
Emergency Lodging Credit	$0	$0	$1	$0
Unlocking Public Lands Credit	$0	$2,250	$685	$0
Total	**$2,881,069**	**$2,295,469**	**$214,921**	**$139,701**

Pass-Through Distributions and Credits by Industry

When preparing an informational tax return, pass-through entities are expected to provide information on the type of industry work the pass-through is engaged in.[1] The next table provides a list of the Montana source income that was distributed by Montana's S Corporations in 2016, broken down by industry sector type. As can be seen from the tax return information, there is a significant amount of variation in the amount of income S Corporations provided to their respective owners at the industry level. S Corporations in the Trade, Transportation and Utilities sector generated the largest amount of combined Montana source income for their owners, distributing approximately $569 million in 2016. The Construction and Professional and Business Services S Corporations also provided a significant amount of income to their owners, passing through $338 million and $365 million in income respectively.

Montana-Source Income Passed Through to Owners, 2016 (Thousands of Dollars)

	S-Corporations										
	Natural Resources & Mining	Construction	Manufacturing	Trade, Transportation & Utilities	Information	Financial Activities	Professional & Business Services	Education & Health Services	Leisure & Hospitality	Other Services	Unknown / Public Admin
Returns	3,136	6,112	1,211	5,002	436	4,456	5,871	1,880	2,409	1,779	378
Income Items											
Salaries and Other Fixed Payments to Owners	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Ordinary Business Income	$33,672	$423,174	$66,128	$575,184	$16,259	$158,950	$367,385	$165,061	$109,862	$75,408	$1,421
Rental Income											
Real Estate	$7,351	$106	$581	$5,227	$334	$15,619	-$163	$837	$1,870	$278	-$10
Other	$794	$322	$582	$17,196	$30	-$1,381	-$357	$5	$314	$82	$39
Interest	$4,262	$2,390	$1,218	$6,603	$301	$10,983	$1,290	$751	$1,769	$409	$15
Dividends	$1,800	$830	$3,198	$2,286	$311	$6,328	$479	$73	$330	$220	$9
Royalties	$9,280	$305	$171	$212	$199	$1,849	$225	$2	$486	$156	$0
Capital Gains	$5,076	$3,070	$1,097	$33,575	$3,445	$191,232	$10,715	$7,097	$2,643	$3,881	$38
Gains Taxed as Ordinary Income	$72,557	$3,845	$21,057	$21,905	$180	$25,316	$23,863	$1,263	$22,573	$691	-$3
Other Income	-$158	$425	$1,696	$2,574	$0	$728	$391	$21	$401	$40	$3
Total	$134,633	$434,468	$95,729	$664,762	$21,058	$409,624	$403,828	$175,109	$140,250	$81,166	$1,512
Montana Additions to Federal Income											
Interest on Non-Montana Municipal Bonds	$254.2	$144.2	$234.0	$98.0	$3.3	$563.9	$852.5	$0.3	$21.7	$47.1	$0.0
State and Local Income Taxes	$108.4	$613.4	$106.6	$408.3	$39.3	$94.0	$473.9	$20.6	$174.9	$32.5	$0.0
Other	$322.1	$355.7	$17.8	$205.2	$4.8	$440.0	$232.9	$0.0	$3.6	$19.1	$0.0
	$684.7	$1,113.4	$358.4	$711.5	$47.4	$1,097.9	$1,559.3	$20.9	$200.2	$98.7	$0.0
Montana Subtractions from Federal Income											
Interest on Federal Bonds	$28.4	$81.9	$119.8	$16.1	$0.1	$200.0	$6,147.4	$0.7	$0.8	$0.5	$0.0
Purchases of Recycled Materials	$6.9	$143.3	$217.2	$76.2	$0.0	$0.0	$0.0	$0.0	$25.7	$0.0	$0.0
Other	$3,708.3	$1,791.0	$154.0	$31,206.2	$134.2	$125,881.0	$3,042.5	$723.4	$2,024.0	$16.5	$0.0
Total	$3,743.6	$2,016.1	$491.1	$31,298.5	$134.4	$126,081.1	$9,189.8	$724.1	$2,050.5	$17.0	$0.0
Deductions											
Expensing of Capital Purchases	$52,924.7	$89,469.7	$13,353.5	$55,782.0	$2,015.2	$14,514.6	$25,595.9	$13,016.2	$17,646.3	$11,338.0	$96.7
Contributions	$2,245.9	$6,078.1	$4,764.6	$8,864.7	$288.0	$4,092.5	$4,583.9	$1,854.5	$2,255.2	$1,125.4	$57.3
Interest on Funds Borrowed to Make Investments	$516.4	$188.5	$1.4	$26.5	$0.1	$17,766.6	$58.7	$0.1	$5.7	$38.0	$0.0
Other	$4,870.3	$321.7	$92.7	$726.3	$27.8	$52,838.3	$571.0	$1,062.9	$162.5	$72.3	$0.6
Total	$60,557.3	$96,058.1	$18,212.2	$65,399.4	$2,331.1	$89,211.9	$30,809.5	$15,933.6	$20,069.8	$12,573.7	$154.6
Total Net Montana Source Income	**$71,017**	**$337,507**	**$77,384**	**$568,775**	**$18,639**	**$195,429**	**$365,388**	**$158,472**	**$118,330**	**$68,674**	**$1,357**

1 Industry data on income tax returns are self-reported and are subject to some reporting error.

As can be seen in the next table, the amount of pass-through income also varies significantly for Montana's pass-through partnerships. In 2016, Financial Activity partnerships generated a little more than $440 million in income within Montana, which is more than double the income generated by any other pass-through industry sector. Unlike S Corporations, three partnership pass-through sectors reported negative pass-through income for their owners. In 2016, the Natural Resources, Manufacturing and Unclassified sectors reported $61.2 million in combined losses during the year.

Montana-Source Income Passed Through to Owners, 2016 (Thousands of Dollars)

	Partnerships										
	Natural Resources & Mining	Construction	Manufacturing	Trade, Transportation & Utilities	Information	Financial Activities	Professional & Business Services	Education & Health Services	Leisure & Hospitality	Other Services	Unknown / Public Admin
Returns	3,974	1,360	514	1,889	296	15,862	2,068	455	1,430	654	455
Income Items											
Salaries and Other Fixed Payments to Owners	$23,063	$17,105	$4,298	$21,600	$2,093	$18,103	$37,592	$41,309	$10,178	$4,419	$271
Ordinary Business Income	-$79,963	$63,937	-$37,156	$26,629	$173,688	-$7,456	$104,385	$119,996	$28,112	$11,030	-$656
Rental Income											
Real Estate	$13,802	$520	$367	$7,716	$64	$146,915	-$16,161	$1,832	$2,155	$704	$484
Other	$2,619	-$4	$85	-$329	$2,059	$23,692	$444	$42	$147	-$22	$0
Interest	$3,933	$417	$621	$2,519	$6,640	$32,568	$1,852	$1,555	$683	$185	$60
Dividends	$1,209	$114	$3,109	$895	$16	$28,650	$4,239	$176	$210	$225	$8
Royalties	$39,078	$304	$1,405	$93	$14	$9,096	$581	$157	$96	$563	$22
Capital Gains	$1,934	$1,782	-$2,526	-$12,239	$245	$52,804	-$678	$889	$588	-$4,659	-$500
Gains Taxed as Ordinary Income	$37,092	$5,154	$1,418	$7,557	$3,098	$132,850	$17,143	$2,745	$275	$656	$176
Other Income	$14,886	$908	$11,995	$2,032	$62	$7,447	-$10,995	-$10	$277	$62	$0
Total	$57,652	$90,237	-$16,385	$56,474	$187,980	$444,668	$138,403	$168,691	$42,722	$13,165	-$135
Montana Additions to Federal Income											
Interest on Non-Montana Municipal Bonds	$164	$37.4	$0.0	$0.4	$0.0	$3,218.2	$62.4	$0.2	$5.6	$147.9	$0.0
State and Local Income Taxes	$65	$32.7	$130.1	$793.9	$179.2	$473.6	$108.3	$24.5	$221.5	$2.2	$0.6
Other	$958	$10.2	$2.5	$25,507.6	$0.0	$89,555.6	$4,935.5	$0.3	$39.1	$0.0	$0.0
	$1,187.8	$80.2	$132.6	$26,301.9	$179.2	$93,247.4	$5,106.3	$25.0	$266.3	$150.0	$0.6
Montana Subtractions from Federal Income											
Interest on Federal Bonds	$5	$0.7	$0.0	$1.3	$0.0	$628.5	$3.7	$28.5	$12.9	$0.6	$0.0
Purchases of Recycled Materials	$0	$12.1	$0.0	$0.0	$0.0	$0.0	$0.0	$0.0	$6.3	$0.0	$0.0
Other	$4,956	$7,991.0	$30.0	-$3,302.0	$5,002.2	$18,345.5	$3,822.1	$154.2	$1,977.7	$72.8	$0.0
Total	$4,961	$8,003.8	$30.1	-$3,300.7	$5,002.2	$18,974.0	$3,825.9	$182.7	$1,997.0	$73.3	$0.0
Deductions											
Expensing of Capital Purchases	$48,824	$9,132.5	$3,430.1	$9,226.1	$289.5	$9,274.2	$3,780.0	$3,442.2	$7,533.1	$1,498.2	$273.7
Contributions	$5,635	$1,107.9	$266.3	$885.1	$163.7	$29,135.9	$1,253.2	$525.3	$892.4	$244.6	$7.1
Borrowed to Make Investments	$413	$9.1	$0.0	$283.1	$15.4	$6,550.5	$223.8	$0.0	$262.3	$30.9	$7.5
Other	$37,265	$1,896.7	$2,553.6	$26,981.7	$7,721.7	$33,394.5	$31,105.8	$5,993.3	$2,700.7	$786.5	$287.4
Total	$92,137	$12,146.3	$6,250.0	$37,376.0	$8,190.3	$78,355.1	$36,362.7	$9,960.8	$11,388.4	$2,560.0	$575.7
Total Net Montana Source Income	**-$38,259**	**$70,167**	**-$22,533**	**$48,700**	**$174,967**	**$440,586**	**$103,321**	**$158,573**	**$29,602**	**$10,682**	**-$711**

Pass-Through Entities by Size - Number of Owners

Pass-through entities vary greatly in size. Approximately 50 percent of Montana's S Corporation pass-throughs reported a single owner and 68 percent of partnership pass-throughs with Montana source income had two or three owners. Overall, pass-throughs that operate in multiple states tend to have more owners than pass-throughs that only operate in Montana. Amoung S Corporations, fewer than 10 percent of pass-throughs that only operated in Montana in 2016 had more than eight reported owners, while more than 7 percent of multi-state S Corporations had at least nine owners. At the same time, 24 percent of Montana's multi-state partnership pass-throughs had more than eight owners, which is approximately eight times larger than the proportion of Montana-only partnerships with at least nine reported owners.

Pass-Through Entities - Number of Owners

	S Corporations				Partnerships			
Number of Reported	Montana		Multi-State		Montana		Multi-State	
Owners	Number	%	Number	%	Number	%	Number	%
1	12,289	54.9%	3,967	40.0%	43	0.2%	65	0.6%
2 to 3	8,983	40.2%	3,826	38.5%	14,042	79.3%	5,476	50.2%
4 to 8	977	4.4%	1,436	14.5%	3,123	17.6%	2,723	24.9%
9 to 20	104	0.5%	475	4.8%	424	2.4%	1,026	9.4%
Over 20	15	0.1%	224	2.3%	84	0.5%	1,626	14.9%

Pass-Through Entities by Size - Montana Source Income

The following table shows the number and percentages of pass-through entities in six groups based on the entity's Montana source income. As can be seen from the following table, many S Corporations and approximately 47 percent of all partnerships reported zero, or negative, Montana source income on their returns. And while S Corporations and partnerships tend to be used as business structures for smaller businesses, there are some partnerships and S Corporations that have substantial Montana source income – falling into the over $5 million category. Thirty-five S Corporations and 59 partnerships reported more than $5 million in Montana source income.

Number of Pass Through Entities by Amount of Montana Source Income								
	S Corporations				Partnerships			
	Montana		Multi-State		Montana		Multi-State	
Montana - Source Income	Number	%	Number	%	Number	%	Number	%
$0 or Negative	6,103	27.2%	5,303	51.7%	7,209	40.6%	6,402	57.1%
$1 to $10,000	3,281	14.6%	2,700	26.3%	3,162	17.8%	2,602	23.2%
$10,001 to $100,000	9,536	42.6%	1,460	14.2%	5,348	30.2%	1,454	13.0%
$100,001 to $1,000,000	3,322	14.8%	680	6.6%	1,835	10.3%	644	5.7%
$1,000,001 to $5,000,000	156	0.7%	94	0.9%	156	0.9%	86	0.8%
Over $5,000,000	12	0.1%	23	0.2%	27	0.2%	32	0.3%

The next table shows Montana source income reported by pass-through entities for the same groups provided in the previous table. Most of the income generated by pass-through entities was from entities with over $5 million in Montana source income. For S Corporation pass-throughs, entities with over $5 million in Montana source income generated approximately $491 million in 2016, which is 23.4 percent of all the Montana source income generated by Montana's S Corporation pass-throughs. Partnership pass-throughs with over $5 million in Montana source income generated $781 million in Montana source income in 2016.

Montana Source Income by Size of Pass-Through								
	S Corporations				Partnerships			
	Montana		Multi-State		Montana		Multi-State	
Montana - Source Income	$ million	%	$ million	%	$ million	%	$ million	%
$0 or Negative	-$255	-18.6%	-$112	-15.4%	-$562	-67.8%	-$520	-197.9%
$1 to $10,000	$14	1.0%	$6	0.8%	$13	1.5%	$5	2.0%
$10,001 to $100,000	$392	28.6%	$53	7.3%	$206	24.8%	$53	20.1%
$100,001 to $1,000,000	$819	59.9%	$200	27.5%	$476	57.4%	$194	73.8%
$1,000,001 to $5,000,000	$281	20.6%	$206	28.4%	$270	32.5%	$176	67.1%
Over $5,000,000	$117	8.6%	$374	51.4%	$426	51.4%	$355	134.9%

Taxation of Estates and Trusts

Estates and trusts are legal arrangements where one party holds assets on behalf of or for the benefit of one or more other parties. The details of these legal arrangements vary widely, because trusts can be set up to serve many purposes and because estates and trusts are created under state laws, which vary between states.

A trust generally is managed by one or more trustees. The estate of a decedent is managed by an executor. The manager of a bankruptcy estate is called a trustee or a debtor in possession depending on whether the estate is created under Chapter 7 or Chapter 11 of the bankruptcy code. Managers of trusts and estates are referred to as fiduciaries because of their fiduciary duty to act in the interest of another party rather than in their own interest.

When an estate or trust earns income, it may distribute part or all of the income to one or more beneficiaries or it may retain part or all of the income. Beneficiaries are taxed on income distributed to them, and the estate or trust is taxed on income it retains.

A trust may also distribute part of the principal to one or more beneficiaries. All estates and many trusts are created with the intention of ultimately distributing all their assets. Distributions from the principal of an estate or trust are not taxable.

Montana taxes the income of a trust or estate as if the trust or estate were an individual, with the exception that a trust or estate is allowed a deduction for income distributed to beneficiaries. Some trusts are created for the purpose of providing funds for charity, and estates and trusts are allowed a deduction for charitable contributions.

Estates and trusts may file on a tax year that is different from the calendar year. In this section, information is reported based on the calendar year when the estate or trust's tax year started. Tax years numbered 2016 may have ended any time between December 31, 2016 and December 30, 2017. Returns are due by the 15th day of the fourth month after the end of the tax year, but taxpayers may receive a six-month filing extension. Thus, 2016 is the latest tax year for which all returns had been filed and processed by the time of publication.

Types of Estates and Trusts

The Montana return asks the fiduciary to indicate that the return is for one of 11 types of estate or trust. The following table shows the number of returns in each category for 2015 and 2016.

Number of Estate and Trust Returns

	2015	2016
Simple Trust	2,586	2,569
Complex Trust	4,663	4,731
Decedent's Estate	1,485	1,526
Grantor Trust	6,936	7,040
Electing Small Business Trust	24	13
Qualified Disability Trust	73	72
Bankruptcy Estate (Chapter 7)	26	20
Bankruptcy Estate (Chapter 11)	3	3
Qualified Funeral Trust	2	3
Pooled Income Fund	1	1
Other	295	319
Total	16,094	16,297

A simple trust is a trust where all income is to be distributed to the beneficiaries, no income is to be used for charitable purposes, none of the principal is to be distributed, and capital gains are to be allocated to the principal. A complex trust is a trust that does not qualify as a simple trust and does not fall into one of the other categories. A decedent's estate is charged with distributing assets in accordance with the decedent's will or state law and preserving assets until they are distributed.

A grantor trust is a trust where the person who created the trust retains control of or an ownership interest in the trust's assets. For both federal and Montana taxes, a grantor trust is treated as a disregarded entity: Its income is treated as belonging to the grantor and its income and deduction line items should be reported on the grantor's tax return.

An electing small business trust is a trust that holds shares in an S Corporation and for which the trustee has made an election to be taxed under a different section of federal law than generally applies to trusts. Montana taxes electing small business trust the same as other trusts.

A qualified disability trust is a trust whose beneficiaries are one or more disabled persons under the age of 65. A bankruptcy estate holds the assets of a bankrupt individual or business and is charged either with liquidating those assets to repay debts (Chapter 7) or with reorganizing the business (Chapter 11).

A qualified funeral trust is a type of grantor trust set up to pay the beneficiary's funeral expenses. A pooled income fund is an arrangement where individuals or businesses donate assets to a charity with the provision that the donor is to receive part or all of the earnings from the assets for a fixed period or for life.

Income of Estates and Trusts

Montana law considers a trust to be a resident trust if the trust has sufficient connection to Montana, which includes having its primary place of administration in Montana, property located in Montana, and having beneficiaries located in Montana. A trust is classified as a part year resident trust if sufficient connection with the state has ceased during a year. A trust or estate that is created during a year has a short tax year but is considered either resident or non-resident.

All of a resident trust's income is taxable by Montana, but a trust with income that has its source in another state may claim a credit against Montana tax for tax paid to another state. Montana source income of a non-resident trust is taxable by Montana. As with a non-resident individual, a non-resident trust calculates tax on all its income and then multiplies this calculated tax by the share of its income that has a Montana source.

The following table shows the different types of income reported by trusts and estates. It shows income of resident estates and trusts and non-resident and part-year resident estates and trusts separately. For non-resident and part-year resident estates and trusts, it shows the average nonresident / part-year resident ratio used in calculating their tax. This is the ratio of total Montana source income to total income from all sources.

Income Reported on Estate and Trust Returns
($ million)

	2015		2016	
Type of Income	**Resident**	**Nonresident and Part-Year**	**Resident**	**Nonresident and Part-Year**
Interest	$12.866	$161.809	$12.769	$199.730
Dividends	$48.591	$418.099	$49.324	$405.938
Sole Proprietor Business Income	$2.250	-$34.384	$1.047	-$102.669
Pass-Through Business, Rents, Royalties	$52.489	-$16.245	$44.126	$522.881
Gain or Loss on Asset Sales				
Taxed as Capital Gains	$78.114	$2,271.803	$50.130	$1,364.978
Taxed as Ordinary Income	-$5.522	$113.482	-$1.774	$53.335
Other	$22.908	$37.243	$15.467	$38.132
Total	$211.695	$2,951.807	$171.088	$2,482.326
Average Resident Ratio for Nonresident and Part-Year Resident Estates and Trusts		0.96%		0.81%

Deductions for Charitable Contributions and Distributions to Beneficiaries

Income earned by a trust or estate generally is put to one of four uses: It may be used to pay costs of the trust, it may be donated to charity, it may be distributed to a beneficiary, or it may be retained and added to the principal of the trust. In calculating taxable income, an estate or trust is allowed an itemized deduction for charitable contributions in the same way an individual is. Unlike an individual, an estate or trust is allowed a deduction for income distributed to a beneficiary. An estate or trust may also distribute part of the principal, but this is not deductible for the trust or taxable for the beneficiary. The following table shows deductions for charitable contributions and for distributions to beneficiaries.

Deductions for Charitable Contributions and Distributions to Beneficiaries

	2015		2016	
	Entities with Deduction	$ million	Entities with Deduction	$ million
Charitable Constributions				
Resident Estates and Trusts	246	$13.199	233	$9.772
Nonresident and Part-Year	503	$158.226	538	$101.885
Distributions from Income				
Resident Estates and Trusts	3,161	$110.465	3,219	$94.219
Nonresident and Part-Year	965	$930.233	971	$790.656

Tax Paid by Estates and Trusts

Trusts and estates directly pay about $5 million in tax per year. The following table shows tax paid by type of trust or estate. Categories with few returns are combined to protect taxpayer confidentiality.

Tax After Capital Gains Credit and Apportionment ($ million)

Entity Type	2015	2016
Bankruptcy Estates	$0.002	$0.000
Decedent Estates		
Resident	$0.252	$0.445
Nonresident and Part-Year	$0.018	$0.037
Electing Small Business Trusts		
Resident	$0.068	$0.000
Nonresident and Part-Year	$0.000	$0.000
Grantor Trusts	$0.000	$0.000
Simple Trusts		
Resident	$0.478	$0.303
Nonresident and Part-Year	$0.021	$0.084
Disability, Funeral, Pooled Income, and Other	$0.005	$0.013
Complex Trust Not in Another Category		
Resident	$1.814	$1.081
Nonresident and Part-Year	$0.518	$0.243
All Estates and Trusts	$3.177	$2.206

Corporate Income Tax

Montana's corporate income tax is a tax levied on C Corporations for the "privilege of carrying on business in this state for the tax year in which the income was earned" (15-31-101(3), MCA). A corporation includes:

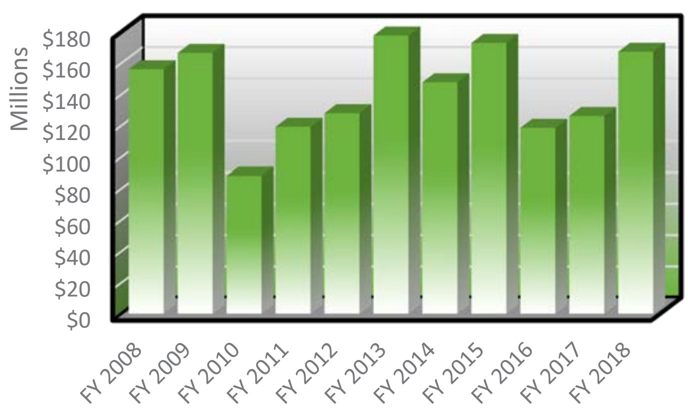
> an association, joint-stock company, common-law trust or business trust that does business in an organized capacity, all other corporations whether created, organized, or existing under and pursuant to the laws, agreements, or declarations of trust of any state, country or the United States, and any limited liability company, limited liability partnership, partnership or other entity that is treated as an association for federal income tax purposes and that is not a disregarded entity (15-31-101(1), MCA).

Every bank organized under the laws of the state of Montana, of any other state, or of the United States, and every savings and loan association organized under the laws of this state or of the United States is subject to the Montana corporate income tax (15-31-101(4), MCA).

The table below shows total corporate income tax collections for Fiscal Years 2008 through 2018 as recorded in the state accounting system. As a rule, corporate income tax collections in Montana follow the general national economy. Total collections in Fiscal Year 2008 (which started on July 1, 2007) were $155.9 million, increasing to $166.4 million in Fiscal Year 2009 and declining to $87.9 million in Fiscal Year 2010. Fiscal Year 2017 and Fiscal Year 2018 corporate tax revenues were $126.0 million and $167.1 million, respectively. Corporate income taxes are deposited in the state general fund.

Corporate Income Tax

Fiscal Year	Total Revenue
FY 2008	$155,890,705
FY 2009	$166,352,453
FY 2010	$87,906,411
FY 2011	$119,045,890
FY 2012	$127,774,092
FY 2013	$177,500,421
FY 2014	$147,550,091
FY 2015	$172,731,561
FY 2016	$118,386,603
FY 2017	$125,991,635
FY 2018	$167,099,816



The table on the following page provides a breakdown for the last seven years of revenues deposited in the general fund by how they are collected and also shows refunds.

As the table shows, estimated quarterly payments are by far the largest source of corporate income tax collections, followed by payments with returns.

Average estimated payments over the past seven years were $121.7 million. Average annual revenue for payments with returns over the same period was $32.3 million. The seven-year average of revenues from audits, penalties, and interest was $19.5 million. Refunds averaged about $24.4 million per year.

Over the past seven years, total corporate tax collections averaged about $149.1 million annually. However, there was wide variation in annual collections over that time period.

Corporate Income Tax Collections and Refunds - General Fund					
Fiscal Year	Payments With Returns	Estimated Payments	Audits, Penalties, and Interest	Refunds	Total Collections
FY 2012	$27,777,649	$110,864,886	$27,885,386	($38,757,329)	$127,770,592
FY 2013	$35,894,922	$135,790,121	$16,811,485	($10,999,107)	$177,497,421
FY 2014	$28,136,519	$130,352,294	$10,765,481	($21,706,704)	$147,547,591
FY 2015	$31,109,657	$129,923,853	$28,775,440	($17,972,938)	$171,836,012
FY 2016	$29,079,903	$108,541,034	$13,308,491	($31,390,463)	$119,538,965
FY 2017	$31,668,677	$107,111,190	$12,318,708	($25,851,754)	$125,246,820
FY 2018	$42,743,886	$129,097,865	$26,779,392	($24,228,007)	$174,393,137
Average	$32,344,459	$121,668,749	$19,520,626	($24,415,186)	$149,118,648

Who pays Corporate Income Taxes?

Only C Corporations pay corporate income taxes. Corporations that elect to file as a subchapter S Corporation for federal tax purposes are also required to file as a subchapter S Corporation for Montana income tax purposes. Despite the filing requirement, subchapter S Corporations do not pay Montana corporate income taxes. Instead, the owners or shareholders of the S Corporation are subject to income tax on income flowed through the S Corporation to the owner or shareholder. Then the owner/shareholder reports any taxable income on their individual income tax form. S Corporations are discussed more in the section on pass-through entities.

Organizations exempt from the tax include corporations or associations organized and operated exclusively for religious, charitable, scientific, or educational purposes, and whose income does not benefit any stockholder or individual.

Other entities exempt from corporate income tax include labor, agricultural or horticultural organizations; civic organizations operated exclusively for the promotion of social welfare; clubs or corporations organized and operated exclusively for pleasure, recreation or other nonprofit purposes and who do not have income that benefits private stockholders or members; and similar nonprofit organizations.

Unrelated business taxable income, as defined by federal law, of exempt organizations that creates more than $100 of federal tax liability is taxable as corporate income in the same manner as other taxable corporate income.

To receive treatment as exempt from state corporation taxes, the corporation must prove it is in compliance with all statutory conditions (15-31-102, MCA and ARM 42.23.103). Research and development firms organized to engage in business for the first time in Montana do not have to pay the corporate income tax for the first five years of operation. To receive this tax treatment, the firm must apply to the Department of Revenue and be approved as meeting legal requirements (15-31-103, MCA).

Returns Filed for Tax Year 2016	
Regular C Corporations	16,432
S Corporations	32,670
Total Corporations	49,102
C Corporations Paying Minimum Tax*	10,688
C Corporations Paying More Than Minimum Tax	5,744
Total C Corporations	16,432

* Includes corporations filing a tax return, but claiming zero or negative taxable income

Distribution of Corporate Income Taxes

The following table shows the distribution by Montana tax liability of the 16,432 corporate returns with a Montana tax liability filed in calendar years 2017 and 2018 reporting on Tax Year 2016. Note that the revenues from the return data will not match the fiscal year revenues in earlier tables because fiscal year revenue is based upon payments, including estimated payments and payments with returns, recorded in the state accounting system.

Tax Year 2016 Distribution of Montana Tax Liability

Regular Corporation Returns	Number	Tax Liability	Percent of Total Liability	Cumulative Percent of Total Liability
Top 100 returns	100	$87,765,316	69%	69%
Second 100 returns	100	$12,029,931	9%	78%
Third 100 returns	100	$6,425,096	5%	83%
Fourth 100 returns	100	$4,226,805	3%	87%
Fifth 100 returns	100	$2,944,682	2%	89%
All other returns	15,932	$14,195,049	11%	100%
Total	16,432	$127,586,879	100%	n/a

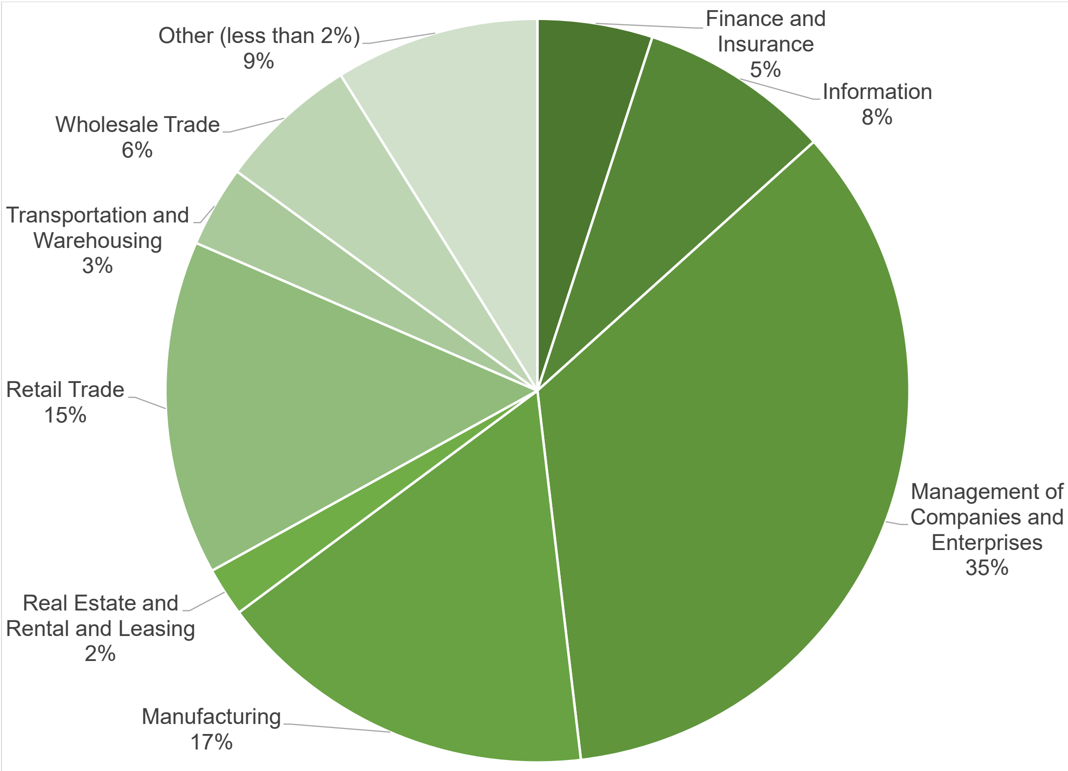
Altogether the top 100 returns constituted about 69 percent of total tax liability for the entire group of taxpayers. The top 500 returns accounted for 89 percent of total Montana tax liability for the group. The other 15,932 returns accounted for only 11 percent of the total Montana tax liability.

Another way to look at the distribution of corporate income taxes is by economic sector. Starting with the 2009 tax returns, corporate taxpayers were asked to identify their primary industry just as identified on their federal tax forms. The following pie chart shows the distribution of corporate income taxes for the largest sectors.

The largest sector in terms of Tax Year 2016 tax liability was management of companies and enterprises. Corporations involved in the management of companies and enterprises that includes bank and other holding companies and corporate or regional headquarters paid about 35 percent of all the corporate income taxes.

Manufacturing was the second largest sector with 17 percent of all corporate income taxes in Tax Year 2016. The Census Bureau list of manufacturing activities includes food manufacturing including grain, oilseed, fruit and dairy processing; bakeries; beverages; sawmills, millwork, and paper manufacturing; petroleum and chemical manufacturing; cement and concrete; and other activities.

Corporations primarily involved in retail trade paid 15 percent of corporate income taxes; information paid 8 percent; and wholesale trade paid 6 percent.



When looking at the chart it is important to remember that only businesses organized as C Corporations pay corporate income taxes. Businesses can also be organized as partnerships, S Corporations, or sole proprietorships. These businesses are called pass-through entities because the income from the business is passed through to the owners or shareholders of these businesses, who then must report the income on their own tax returns. Businesses in certain industries, such as agriculture or legal services, may be more likely to be structured as a pass-through entity, rather than as a C Corporation.

Taxable Income and the Tax Rate

The starting point for calculating Montana corporate income tax is the corporation's federal taxable income. To determine net income taxable by Montana, certain adjustments to federal taxable income must be made. For example, municipal bond interest is taxable and must be added to income. Also, Montana allows certain reductions to income, such as a portion of the cost of energy conservation investments made in a building used for the corporation's business.

After the additions and reductions to federal taxable income required by Montana law, income is then apportioned to Montana to produce Montana taxable income.

If the corporation conducts business that is taxable only in Montana, then all of the net taxable income from that business is Montana taxable income. The tax is levied at a rate of 6.75 percent on net income earned in Montana.

Multi-state corporations with net taxable income generated by doing business both inside and outside the state are required to apportion income to Montana based on an equally weighted, three-factor apportionment formula.

Receipts, property, and payroll comprise the three factors used in the apportionment formula. The payroll factor is the ratio of payroll paid in compensation attributable to the production of business income during the tax period in Montana to all payroll paid. Similarly, the property factor is based on the ratio of Montana property to all property and the receipts factor is based on the ratio of Montana receipts to all receipts. Once the three factors are calculated, they are averaged together to create the overall apportionment factor. That factor is applied against adjusted federal taxable income to produce the net income apportioned to Montana, or Montana taxable income.

Example of Apportionment Factor Calculation for Multi-State Corporation

Payroll In Montana		**Total Payroll**		**Payroll Factor**
$1,000,000	÷	$10,000,000	=	0.100
Property In Montana		**Total Property**		**Property Factor**
$2,000,000	÷	$125,000,000	=	0.016
Receipts In Montana		**Total Receipts**		**Receipts Factor**
$4,000,000	÷	$100,000,000	=	0.040
Apportionment Factor (Avg.)				**0.052**

The tax is normally levied at a rate of 6.75 percent on net income apportioned to Montana, with exceptions explained below.

Following is an example of how a multi-state corporation doing business in Montana would calculate its Montana source income assuming the following facts:

- The corporation has $1 million in payroll in Montana out of total payroll of $10 million dollars.
- It has $2 million of property in Montana out of total property owned by the corporation of $125 million.
- The corporation has receipts in Montana of $4 million out of total receipts for the firm of $100 million during the tax year.

These facts result in an apportionment factor of 0.052 (see the calculations in the previous table).

If this corporation had total taxable income of $10,000,000, then its Montana taxable income is $520,000 ($10 million times 0.052 equals $520,000), and its state income tax is $35,100 before credits ($520,000 times 6.75 percent).

Relying on an apportionment formula simplifies the calculation of taxable income by state for the multistate taxpayer and for the state tax administrator, but there can still be issues. A simple example is that of a multistate taxpayer who over-apportions or shifts one or more of the factors - property, payroll or sales - to a state that does not tax corporate income. Apportioning too much in receipts or property or payroll to a non-income tax state reduces other states' apportionment factors and so reduces the income taxable in those states.

Montana is a worldwide, combined unitary state. A business is unitary when the operations of that business within the state depend on or contribute to the operations of that business outside the state. However, in Montana corporations can elect to have primarily their United States income included in the apportionment process. Corporations taking this election, called a “water's edge” election, pay the tax at a rate of 7 percent instead of 6.75 percent. For corporations electing to file as water's edge corporations, there are some limits on exclusions under the water's edge election (see 15-31-322 and 15-31-324, MCA).

Multinational unitary corporations wishing to file under the water's edge method are required to file a written election within the first 90 days of the tax period for which the election is to become effective. The Department of Revenue must approve the election before the corporation uses it and the election is binding for three consecutive taxable periods.

Corporations whose only activity in Montana consists of making sales, and who do not own or rent real estate or tangible personal property, and whose annual gross income from sales in Montana does not exceed $100,000, may elect to pay an alternative tax equal to 0.5 percent of gross sales.

There is a minimum tax of $50 for any corporation doing business in the state. The table on returns filed for Tax Year 2016 earlier in this section shows that for those returns filed in Tax Year 2016 by corporations, the minimum tax or less was paid on 10,688 returns or 65 percent. If the corporation has no property, sales, or payroll in the state during the tax period, it is exempt from the minimum tax.

All states with a corporate income tax allow corporations a carry forward of net operating losses (NOLs). These losses can be deducted against net taxable income in future years, although all states limit the number of years a corporation can carry forward losses. Some states, including Montana, allow carryback of net operating losses.

Beginning in Tax Year 2018, Montana NOLs of a corporation may be carried back for a period of 3 years and used to reduce prior years' taxable income, and may be carried forward for up to 10 years to reduce taxable income in those future years. Loss carrybacks may not exceed $500,000 per tax period. Previously, losses could be carried back three years and forward seven years without any limitation on the carryback amount.

The table on the next page provides a comparison of Montana treatment of net operating loss deductions with that in other states.

In Montana, if a corporation has net operating losses, it can file an amended return and claim a refund of previously-paid taxes for any or all the prior three years, with the $500,000 carryback limitation per tax period beginning in Tax Year 2018.

For example, a hypothetical Montana corporation had net taxable income of $50,000 each year in years 1, 2, and 3. In year 4 it had losses of $160,000 and in year 5 it is back to profitability and has taxable income of $60,000. Based upon these assumptions, the corporation would have paid $3,375 in corporate income taxes ($50,000 times 0.0675) each year in years 1, 2, and 3. In year 4, it had net losses of $160,000 so it paid no corporate income tax (actually it would likely pay the $50 minimum tax unless it had credits). In year 4, the corporation could file amended returns for years 1, 2, and 3. On the amended returns, the taxpayer could claim $150,000 of year 4 losses against income earned in those prior years, and obtain refunds of taxes paid, or $10,125 (3 times $3,375). The remaining $10,000 of losses would be used as a deduction against year 5 income of $60,000, reducing taxable income from $60,000 to $50,000, and reducing the corporation's tax liability by $675.

Twenty-nine states do not allow carryback of net operating losses, but do allow carryforward of losses, from five years up to 20 years. Fourteen states allow the same carryforward and carryback periods as federal tax law has historically allowed (two years back and 20 years forward). New York, Montana, and Utah allow corporations with net operating losses to carry back these losses against the three prior years of income.

As can be seen in the footnotes to the Net Operating Loss table on the following page, a number of states have restricted the amounts of losses that can be carried back and used to obtain refunds or carried forward in any one year. For example, like Montana, Utah provides a three year carryback of net operating losses, but has a limit of $1 million on carryback losses.

Idaho allows losses to be carried back against income for up to two years, but limits carryback losses to $100,000. Idaho allows carry forward of losses for up to 20 years.

North Dakota allows carry forward of losses for up to 20 years, but does not allow carryback of losses.

States with Corporate Income Taxes
Allowed Carryback and Carryforward Periods for Net Operating Losses

		Allowed years of carryforward				
		5 years forward	10 years forward	12 years forward	15 years forward	20 years forward
Allowed years of carryback	0 years back	Arkansas Rhode Island	Kansas Michigan New Hampshire Vermont	Illinois	Alabama Minnesota North Carolina Oregon Tennessee	Arizona Colorado Connecticut District of Columbia Florida Indiana Iowa Kentucky Louisiana Maine Massachusetts Nebraska New Jersey New Mexico North Dakota Ohio Pennsylvania South Carolina Wisconsin
	2 years back					Alaska California Delaware Georgia Hawaii Idaho Maryland Mississippi Missouri Oklahoma Virginia West Virginia
	3 years back		Montana		Utah	New York

Source: State Tax Handbook. 2017. CHS; Montana Department of Revenue. 2018.

Credits

As with individual income tax, corporations with expenditures that qualify under state law can claim tax credits. Tax credits are applied against the corporation's tax liability to reduce the amount the corporation owes.

For example, a corporation with Montana taxable income after deductions and additions of $3,000 has a tax liability of $202.50 ($3,000 times 6.75 percent). However if the corporation has expenditures that qualify under state law for a credit of $150, its tax liability is reduced to $52.50 from $202.50. For Tax Years 2015 and 2016, only three corporate income tax credits had enough claims to be able to disclose the number of businesses claiming the credit to the public; if the number of credits claimed on returns is less than 10, the information is confidential. These three credits can be seen in the following table.

Montana Corporation Tax Credits

Credit	--- Tax Year 2015 --- Number of Credits	Total Credit Amounts	--- Tax Year 2016 --- Number of Credits	Total Credit Amounts
Alternative Energy Production Credit	0	$0	0	$0
Alternative Fuel Motor Vehicle Conversion Credit	*	$1,000	0	$0
Biodiesel Blending and Storage Tax Credit	0	$0	0	$0
Charitable Endowment Credit	15	$31,436	11	$25,130
College Contribution Credit	28	$6,468	25	$4,898
Contractor's Gross Receipts Credit	91	$644,922	88	$319,316
Dependent Care Assistance Credit	0	$0	0	$0
Empowerment Zone New Employees Tax Credit	0	$0	0	$0
Geothermal Heating System Credit	0	$0	0	$0
Health Insurance for Uninsured Montanans Credit	*	$5,750	*	$350
Historic Property Preservation Credit	*	$374,586	*	$39,653
Infrastructure Users Fee Credit	*	$1,676,702	*	$706,524
Mineral Exploration Credit	*	$25	*	$25
New/Expanded Industry Credit	*	$2,465	*	$872
Oilseed Crushing and Biodiesel Production Facility Credit	0	$0	0	$0
Qualified Research Credit	*	$300	*	$223
Recycling Credit	*	$20,777	*	$7,605
Short-term Temporary Lodging Credit	0	$0	0	$0
Total Credits	**156**	**$2,764,431**	**142**	**$1,104,596**

Some of the above credits are claimed on returns that have not been audited yet. The amount of credit claimed may change once these returns are audited. In addition, some of the above numbers represent a carryback of some credits claimed on amended returns received during the fiscal year. Credits claimed on less than 10 returns are indicated by a *.

Filing Requirements and Estimated Payments

Unlike individual income taxpayers who must file their federal and state returns based upon a calendar year, corporate taxpayers must file tax returns based upon their fiscal year. Corporate income taxpayers must use the same tax period for their state return as was used for the federal tax return (15-31-112, MCA).

As can be seen in the table in this section, about two-thirds of corporate taxpayers (69 percent) have a fiscal year/tax year that is based upon the calendar year. Tax returns for taxpayers using a calendar year as their fiscal year are due May 15 or November 15 under an automatic extension.

The next most-used fiscal year/tax year is the 12 months ending at the end of June; about 5 percent of corporate taxpayers filing in Montana used a fiscal year ending at the end of June. Tax returns for taxpayers using another period as their fiscal year are due the 15th day of the fifth month after close of the taxable year. So if a taxpayer's fiscal year ends at the end of June, the tax return is due November 15 or May 15 under an automatic extension.

Automatic extensions are allowed for up to six months following the prescribed filing date.

For example, a taxpayer with a fiscal year/tax year that is also a calendar year can use the automatic extension moving the due date of their return from May 15 to November 15. So the Tax Year 2016 return for a taxpayer whose fiscal year is calendar year 2016 would be due May 15, 2017, but the taxpayer would have until November 15, 2017 to file under the automatic extension.

Corporate Income Tax
Tax Year 2016

Tax Year Period Ending	Number of Taxpayers	Percent
12/31/2016	11,269	69%
1/31/2017	359	2%
2/28/2017	248	2%
3/31/2017	780	5%
4/30/2017	212	1%
5/31/2017	215	1%
6/30/2017	848	5%
7/31/2017	158	1%
8/31/2017	205	1%
9/30/2017	790	5%
10/31/2017	834	5%
11/30/2017	514	3%
Total	16,432	100%

A taxpayer whose fiscal year/tax year ends June 30 can obtain an automatic six-month extension that moves the due date for its return from November 15 to May 15 of the following year. So the Tax Year 2016 return for a taxpayer whose fiscal year starts July 1 (in 2016) and goes through June 30 (of 2017) is due November 15, 2017 but the taxpayer would have until May 15, 2018, to file under automatic extension.

Companies with a tax liability of $5,000 or more must make quarterly estimated payments. For a corporation operating with a calendar year as its fiscal year/tax year, the due dates for quarterly payments are April 15, June 15, September 15, and December 15. For a corporation using another 12-month period as its fiscal/tax year, the due dates for quarterly installments are the 15th day of the fourth month, the 15th day of the sixth month, the 15th day of the ninth month, and the 15th day of the 12th month (15-31-502, MCA).

Penalties and Interest

Corporations that do not pay taxes when due may be charged a late payment penalty of 1.2 percent per month on the unpaid tax, up to a maximum penalty of 12 percent of the tax due. Interest on unpaid tax accrues at a rate of 12 percent per year, or at 1 percent per month or fraction of a month on the unpaid tax.

Comparison of Corporate Tax Rate with Other States

Forty-four states and the District of Columbia have a tax on corporate income. The comparison table in this section uses data from the Federation of Tax Administrators (as of January 1, 2018) to show the maximum rates for states that have a corporate tax. These go from 12 percent down to 3 percent. A number of states have a graduated income tax which is indicated by an asterisk next to the state.

Of course, what is shown in the table is only the maximum rate for each state. The effective or average tax rate in different states can vary substantially, depending upon what the lower rates are and what income they apply to. Furthermore, state tax deductions, exemptions and credits, and other aspects of state taxation policy can substantially reduce the effective tax rate.

Nevada and Wyoming do not have corporate income taxes.

Texas does not have a corporate income tax, but imposes a franchise tax based on gross revenues.

Ohio has adopted a commercial activity tax which is a tax on gross receipts. Washington has a business and occupation tax which also is a tax on gross receipts.

Montana's tax rate is 6.75 percent. Idaho's tax rate is 7.4 percent and North Dakota's top corporate income tax rate is 4.31 percent.

South Dakota does not have a general corporate income tax, but does have an excise tax on financial institutions which starts at 6 percent on net income of $400 million or less. The percentage tax declines in steps on net income over that amount.

As noted earlier, Wyoming does not have a corporate income tax, but does have a corporate franchise tax or license tax of two-tenths of on mill per dollar of assets, which applies to the sum of capital, property, and assets located in Wyoming (in addition to a general property tax), and also has a relatively broad-based sales tax.

Maximum Corporate Tax Rate By State

Rank	State	Maximum Tax Rate
1	Iowa*	12.00%
2	Pennsylvania	9.99%
3	Minnesota	9.80%
4	Illinois	9.50%
5	Alaska*	9.40%
6	New Jersey	9.00%
7	Maine *	8.93%
8	California	8.84%
9	Delaware	8.70%
10	Vermont *	8.50%
11	District of Columbia	8.25%
11	Maryland	8.25%
12	New Hampshire	8.20%
13	Louisiana *	8.00%
13	Massachusetts	8.00%
14	Wisconsin	7.90%
15	Nebraska *	7.81%
16	Oregon	7.60%
17	Connecticut	7.50%
18	Idaho	7.40%
19	Rhode Island	7.00%
20	**Montana**	**6.75%**
21	New York	6.50%
21	West Virginia	6.50%
21	Alabama	6.50%
21	Arkansas *	6.50%
21	Tennessee	6.50%
22	Hawaii *	6.40%
23	Missouri	6.25%
24	Georgia	6.00%
24	Indiana	6.00%
24	Kentucky *	6.00%
24	Michigan	6.00%
24	Oklahoma	6.00%
24	Virginia	6.00%
25	New Mexico*	5.90%
26	Florida	5.50%
27	Mississippi *	5.00%
27	South Carolina	5.00%
27	Utah	5.00%
28	Arizona	4.90%
29	Colorado	4.63%
30	North Dakota*	4.31%
31	Kansas	4.00%
32	North Carolina	3.00%

* Graduated income tax

As of Jan. 1, 2018, Federation of Tax Administrators

Select History of Corporate Income (License) Tax

The corporate license tax was established in 1917. The tax rate was 1 percent and there was no minimum tax.

In 1933, the rate was raised to 2 percent with a minimum tax of $5. In 1937, the rate was raised to 3 percent; the minimum tax remained $5. Twenty years later in 1957, the rate was raised to 5 percent and the minimum tax changed to $10. The tax rate was changed several times in the years between 1960 and 1971 and the minimum tax was increased from $10 to $50.

In 1987, the water's edge election, which includes a tax rate of 7 percent for corporations that elect to file as water's edge companies, was added.

In 2013, the name of the corporate license tax was changed to corporate income tax.

Corporate Income Tax
Historic Tax Rates and Minimum Tax

Year	Tax Rate	Minimum Tax	Water's Edge
1987	6.75%	$50	7%
1971	6.75%	$50	-
1969	6.25%	$50	-
1965	5.25%	$10	-
1960	4.5%	$10	-
1957	5%	$10	-
1937	3%	$5	-
1933	2%	$5	-
1917	1%	-	-