



MULTISTATE INCOME/FRANCHISE TAX

Montana enacted legislation modifies corporate apportionment factor, overhauls individual income tax law, and eliminates numerous tax credits

Tax Alert

Overview

On May 11, 2021, Montana Governor Greg Gianforte signed into law [Senate Bill 376](#), which provides for a double-weighted sales factor for corporate income tax apportionment purposes. Additionally on May 6, 2021, Governor Greg Gianforte signed into law [Senate Bill 159](#) and [Senate Bill 399](#), which substantially revises the individual income tax law and eliminates numerous state tax credits, including some available to corporate taxpayers.

Corporate tax apportionment factor

Montana currently apportions the income of multi-state corporate taxpayers using an equally weighted three-factor formula consisting of property, payroll, and sales. Senate Bill 376 amends the apportionment formula to double-weight the sales factor. Specifically, all apportionable income would be apportioned to Montana by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus two times the receipts factor and the denominator of which is four.

Senate Bill 376 is applicable to tax years beginning after June 30, 2021.

Individual income tax simplification

Senate Bills 159 and 399 overhaul Montana individual income tax law. Senate Bill 159 reduces the top income tax rate for individuals from 6.9% to 6.75%. Senate Bill 159 is effective as of October 1, 2021 and applies to tax years beginning after December 31, 2021 and terminates December 31, 2023. The

rate reduction will be contingent upon its impact on federal funding from American Rescue Plan Act and its yearly state budget approval.

Senate Bill 399 moves the individual income tax liability computational starting point from gross income to federal taxable income (with certain state adjustments). This bill eliminates many additions, deductions, and credits.

Senate Bill 399 also reduces the number of individual income tax brackets from seven brackets ranging from a 1% tax rate to a 6.9% tax rate down to two brackets consisting of a tax rate of 4.7% on the first \$41,000 of taxable income and a rate of 6.5% on taxable income in excess of \$41,000.

Finally, Senate Bill 399 eliminates numerous tax credits; including but not limited to the following credits, which impact the corporate income tax:

- Credit for dependent care assistance and referral services
- Credit for providing disability insurance for employees
- Empowerment zone new employees tax credit
- Contribution by partnership or by a small business corporation to a foundation or a general endowment fund of certain universities and colleges by a partnership
- Small business corporation and partnership credit for alternative fuel conversion
- Credit for installing a geothermal system
- Oilseed crush facility tax credit
- Biodiesel or biolubricant production facility tax credit
- Biodiesel blending and storage tax credit; and
- Exploration incentive credit

Senate Bill 399 is generally effective January 1, 2024 and applies to tax years beginning after December 31, 2023. However, the repeal of tax credits is effective January 1, 2022 and applies to tax years beginning after December 31, 2021.

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