

Income/Franchise:

Montana DOR Explains State Treatment of Federal RARs & Partnership Audit Regime Changes

Changes to Partnership Income and Corresponding Montana Source Income from House Bill 53, Mont. Dept. of Rev. (3/4/22); House Bill 53, Mont. Dept. of Rev. (3/7/22). The Montana Department of Revenue (Department) issued summaries of legislation enacted in 2021 [see H.B. 53 (2021) for more details on the legislation] that addresses how and when some partnerships must report federal tax adjustments to the Department in response to changes in the federal partnership audit and adjustment process under the federal 2015 Bipartisan Budget Act. According to the Department, partnerships generally must file a federal adjustment report with the Department within 90 days of receiving a final federal determination, and such report must include both a copy of the federal determination and a detailed statement explaining the change in Montana source income. Moreover, the Department explains that, by default, partnerships must amend their Montana tax returns and Montana Schedules K-1 for the reviewed year, and the partnership is responsible for the payment of additional composite and withholding taxes when applicable, as well as for “pushing out” the adjustment to its direct partners. Direct partners must then file their Montana returns and pay the additional taxes within 180 days of the final federal determination.

URL: <https://mtrevenue.gov/2022/03/04/changes-to-partnership-income-and-corresponding-montana-source-income-from-house-bill-53/>

URL: <https://mtrevenue.gov/2022/03/07/house-bill-53/>

URL:
[http://laws.leg.mt.gov/legprd/LAW0203W\\$BSRV.ActionQuery?P_SESS=20211&P_BLTP_BILL_TYP_CD=HB&P_BILL_NO=53&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=](http://laws.leg.mt.gov/legprd/LAW0203W$BSRV.ActionQuery?P_SESS=20211&P_BLTP_BILL_TYP_CD=HB&P_BILL_NO=53&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=)

The Department also explains that a partnership may elect to pay an amount in lieu of its direct, indirect, or both partners’ tax, and that the adjusted partnership may elect to pay the imputed underpayment of Montana tax when filing the federal adjustment report, “or no later than 90 days after receiving the final federal determination.” In a tiered structure, the Department provides that “any partnership may make such election no later than 90 days after the required time to provide amended MT Schedules K-1 to its partners” – noting that Montana administrative rules “regarding tiered structures and the calculation of the tax for the partnership-pay election” are under development. Lastly, the Department explains that the time to file an amended Montana return with the Department following a federal adjustment is now extended to 180 days and claims for refunds now must be made on or before the latter of:

1. The last day of the regular revision period, or
2. One year from the date the federal adjustment report was due to the Department.

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