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42.15.109 RESIDENCY

(1) As provided in [15-30-2101](#), MCA, an individual may be a resident for Montana individual income tax purposes if the individual is domiciled in the state or maintains a permanent place of abode in the state. Section [1-1-215](#), MCA, sets forth rules for determining residency, and "domiciled" is defined in ARM [42.2.304](#). Whether an individual is a Montana resident for Montana income tax purposes is determined in light of all facts and circumstances.

(2) A Montana resident who enters the United States armed forces does not lose that status as a Montana resident solely by reason of being absent from this state in compliance with military orders.

(3) Special rules regarding nonresident military personnel and their dependents are located at ARM [42.15.112](#).

History: [15-30-2620](#), MCA; [IMP](#), [15-30-2101](#), MCA; [NEW](#), 2004 MAR p. 3147, Eff. 12/17/04; [AMD](#), 2010 MAR p. 1088, Eff. 4/30/10.

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TITLE 1. GENERAL LAWS AND DEFINITIONS

CHAPTER 1. GENERAL PROVISIONS

Part 2. General Definitions of Terms Used in Code

Residence -- Rules For Determining

1-1-215. Residence -- rules for determining. Every person has, in law, a residence. In determining the place of residence, the following rules are to be observed:

(1) It is the place where a person remains when not called elsewhere for labor or other special or temporary purpose and to which the person returns in seasons of repose.

(2) There may be only one residence. If a person claims a residence within Montana for any purpose, then that location is the person's residence for all purposes unless there is a specific statutory exception.

(3) A residence cannot be lost until another is gained.

(4) The residence of an unmarried minor is:

(a) the residence of the minor's parents;

(b) if one of the parents is deceased or the parents do not share the same residence, the residence of the parent having legal custody;

(c) if neither parent has legal custody, the residence of the legal guardian or custodian appointed by a court of competent jurisdiction; or

(d) if the conditions in **20-5-502** are met, the residence of the caretaker relative.

(5) In the case of a controversy, the district court has jurisdiction over which residence is the residence of an unmarried minor.

(6) Except as provided in Title 20, chapter 5, part 5, and this section, the residence of an unmarried minor who has a parent living cannot be changed by either the minor's own act or an act of the minor's guardian.

(7) The residence can be changed only by the union of act and intent.

History: En. Sec. 72, Pol. C. 1895; re-en. Sec. 32, Rev. C. 1907; re-en. Sec. 33, R.C.M. 1921; Cal. Pol. C. Sec. 52; re-en. Sec. 33, R.C.M. 1935; amd. Sec. 4, Ch. 164, L. 1975; R.C.M. 1947, 83-303; amd. Sec. 1, Ch. 367, L. 1997; amd. Sec. 4, Ch. 442, L. 2007; amd. Sec. 1, Ch. 211, L. 2011.

TITLE 15. TAXATION

CHAPTER 30. INDIVIDUAL INCOME TAX

Part 21. Rate and General Provisions

Definitions

15-30-2101. Definitions. For the purpose of this chapter, unless otherwise required by the context, the following definitions apply:

- (1) "Base year structure" means the following elements of the income tax structure:
 - (a) the tax brackets established in **15-30-2103**, but unadjusted by **15-30-2103(2)**, in effect on June 30 of the taxable year;
 - (b) the exemptions contained in **15-30-2114**, but unadjusted by **15-30-2114(6)**, in effect on June 30 of the taxable year;
 - (c) the maximum standard deduction provided in **15-30-2132**, but unadjusted by **15-30-2132(2)**, in effect on June 30 of the taxable year.
- (2) "Consumer price index" means the consumer price index, United States city average, for all items, for all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor statistics of the U.S. department of labor.
- (3) "Corporation" or "C. corporation" means a corporation, limited liability company, or other entity:
 - (a) that is treated as an association for federal income tax purposes;
 - (b) for which a valid election under section 1362 of the Internal Revenue Code (26 U.S.C. 1362) is not in effect; and
 - (c) that is not a disregarded entity.
- (4) "Department" means the department of revenue.
- (5) "Disregarded entity" means a business entity:
 - (a) that is disregarded as an entity separate from its owner for federal tax purposes, as provided in United States treasury regulations 301.7701-2 or 301.7701-3, 26 CFR 301.7701-2 or 26 CFR 301.7701-3, or as those regulations may be labeled or amended; or
 - (b) that is a qualified subchapter S. subsidiary that is not treated as a separate corporation, as provided in section 1361(b)(3) of the Internal Revenue Code (26 U.S.C. 1361(b)(3)).
- (6) "Dividend" means:
 - (a) any distribution made by a C. corporation out of its earnings and profits to its shareholders or members, whether in cash or in other property or in stock of the corporation, other than stock dividends; and
 - (b) any distribution made by an S. corporation treated as a dividend for federal income tax purposes.
- (7) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

(8) "Foreign C. corporation" means a corporation that is not engaged in or doing business in Montana, as provided in **15-31-101**.

(9) "Foreign government" means any jurisdiction other than the one embraced within the United States, its territories, and its possessions.

(10) "Gross income" means the taxpayer's gross income for federal income tax purposes as defined in section 61 of the Internal Revenue Code (26 U.S.C. 61) or as that section may be labeled or amended, excluding unemployment compensation included in federal gross income under the provisions of section 85 of the Internal Revenue Code (26 U.S.C. 85) as amended.

(11) "Inflation factor" means a number determined for each tax year by dividing the consumer price index for June of the previous tax year by the consumer price index for June 2015.

(12) "Information agents" includes all individuals and entities acting in whatever capacity, including lessees or mortgagors of real or personal property, fiduciaries, brokers, real estate brokers, employers, and all officers and employees of the state or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income with respect to which any person or fiduciary is taxable under this chapter.

(13) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, or as it may be labeled or further amended. References to specific provisions of the Internal Revenue Code mean those provisions as they may be otherwise labeled or further amended.

(14) "Knowingly" is as defined in **45-2-101**.

(15) "Limited liability company" means a limited liability company, domestic limited liability company, or a foreign limited liability company as defined in **35-8-102**.

(16) "Limited liability partnership" means a limited liability partnership as defined in **35-10-102**.

(17) "Lottery winnings" means income paid either in lump sum or in periodic payments to:

- (a) a resident taxpayer on a lottery ticket; or
- (b) a nonresident taxpayer on a lottery ticket purchased in Montana.

(18) (a) "Montana source income" means:

(i) wages, salary, tips, and other compensation for services performed in the state or while a resident of the state;

(ii) gain attributable to the sale or other transfer of tangible property located in the state, sold or otherwise transferred while a resident of the state, or used or held in connection with a trade, business, or occupation carried on in the state;

(iii) gain attributable to the sale or other transfer of intangible property received or accrued while a resident of the state;

(iv) interest received or accrued while a resident of the state or from an installment sale of real property or tangible commercial or business personal property located in the state;

(v) dividends received or accrued while a resident of the state;

(vi) net income or loss derived from a trade, business, profession, or occupation carried on in the state or while a resident of the state;

- (vii) net income or loss derived from farming activities carried on in the state or while a resident of the state;
- (viii) net rents from real property and tangible personal property located in the state or received or accrued while a resident of the state;
- (ix) net royalties from real property and from tangible real property to the extent the property is used in the state or the net royalties are received or accrued while a resident of the state. The extent of use in the state is determined by multiplying the royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the royalty period in the tax year and the denominator of which is the number of days of physical location of the property everywhere during all royalty periods in the tax year. If the physical location is unknown or unascertainable by the taxpayer, the property is considered used in the state in which it was located at the time the person paying the royalty obtained possession.
- (x) patent royalties to the extent the person paying them employs the patent in production, fabrication, manufacturing, or other processing in the state, a patented product is produced in the state, or the royalties are received or accrued while a resident of the state;
- (xi) net copyright royalties to the extent printing or other publication originates in the state or the royalties are received or accrued while a resident of the state;
- (xii) partnership income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit:
 - (A) derived from a trade, business, occupation, or profession carried on in the state;
 - (B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of property located in the state; or
 - (C) taken into account while a resident of the state;
- (xiii) an S. corporation's separately and nonseparately stated income, gain, loss, deduction, or credit or item of income, gain, loss, deduction, or credit:
 - (A) derived from a trade, business, occupation, or profession carried on in the state;
 - (B) derived from the sale or other transfer or the rental, lease, or other commercial exploitation of property located in the state; or
 - (C) taken into account while a resident of the state;
- (xiv) social security benefits received or accrued while a resident of the state;
- (xv) taxable individual retirement account distributions, annuities, pensions, and other retirement benefits received while a resident of the state;
- (xvi) any other income attributable to the state, including but not limited to lottery winnings, state and federal tax refunds, nonemployee compensation, recapture of tax benefits, and capital loss addbacks; and
- (xvii) in the case of a nonresident who sells the nonresident's interest in a publicly traded partnership doing business in Montana, the gain described in section 751 of the Internal Revenue Code, 26 U.S.C. 751, multiplied by the Montana apportionment factor. If the net gain or loss resulting from the use of the apportionment factor as provided in this subsection (18)(a)(xvii) does not fairly and equitably represent the nonresident taxpayer's business activity interest, then the nonresident taxpayer may petition for, or the department may require with respect to any and all of the partnership interest, the employment of another method to effectuate an equitable allocation or apportionment of the nonresident's income. This subsection (18)(a)(xvii) is intended to preserve the rights and privileges of a nonresident taxpayer and align those rights with taxpayers who are afforded the same rights under **15-1-601** and **15-31-312**.

(b) The term does not include:

(i) compensation for military service of members of the armed services of the United States who are not Montana residents and who are residing in Montana solely by reason of compliance with military orders and does not include income derived from their personal property located in the state except with respect to personal property used in or arising from a trade or business carried on in Montana; or

(ii) interest paid on loans held by out-of-state financial institutions recognized as such in the state of their domicile, secured by mortgages, trust indentures, or other security interests on real or personal property located in the state, if the loan is originated by a lender doing business in Montana and assigned out-of-state and there is no activity conducted by the out-of-state lender in Montana except periodic inspection of the security.

(19) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this chapter.

(20) "Nonresident" means a natural person who is not a resident.

(21) "Paid", for the purposes of the deductions and credits under this chapter, means paid or accrued or paid or incurred, and the terms "paid or accrued" and "paid or incurred" must be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

(22) "Partner" means a member of a partnership or a manager or member of any other entity, if treated as a partner for federal income tax purposes.

(23) "Partnership" means a general or limited partnership, limited liability partnership, limited liability company, or other entity, if treated as a partnership for federal income tax purposes.

(24) "Pass-through entity" means a partnership, an S. corporation, or a disregarded entity.

(25) "Pension and annuity income" means:

(a) systematic payments of a definitely determinable amount from a qualified pension plan, as that term is used in section 401 of the Internal Revenue Code (26 U.S.C. 401), or systematic payments received as the result of contributions made to a qualified pension plan that are paid to the recipient or recipient's beneficiary upon the cessation of employment;

(b) payments received as the result of past service and cessation of employment in the uniformed services of the United States;

(c) lump-sum distributions from pension or profit-sharing plans to the extent that the distributions are included in federal adjusted gross income;

(d) distributions from individual retirement, deferred compensation, and self-employed retirement plans recognized under sections 401 through 408 of the Internal Revenue Code (26 U.S.C. 401 through 408) to the extent that the distributions are not considered to be premature distributions for federal income tax purposes; or

(e) amounts received from fully matured, privately purchased annuity contracts after cessation of regular employment.

(26) "Purposely" is as defined in **45-2-101**.

(27) "Received", for the purpose of computation of taxable income under this chapter, means received or accrued, and the term "received or accrued" must be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

(28) "Resident" applies only to natural persons and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and who has not established a residence elsewhere.

(29) "S. corporation" means an incorporated entity for which a valid election under section 1362 of the Internal Revenue Code (26 U.S.C. 1362) is in effect.

(30) "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

(31) "Tax year" means the taxpayer's taxable year for federal income tax purposes.

(32) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

(33) "Taxpayer" includes any person, entity, or fiduciary, resident or nonresident, subject to a tax or other obligation imposed by this chapter and unless otherwise specifically provided does not include a C. corporation.

History: En. Sec. 1, Ch. 181, L. 1933; re-en. Sec. 2295.1, R.C.M. 1935; amd. Sec. 1, Ch. 166, L. 1947; amd. Sec. 1, Ch. 253, L. 1959; amd. Sec; 1, Ch. 62, L. 1967; amd. Sec. 157, Ch. 516, L. 1973; R.C.M. 1947, 84-4901; amd. Sec. 1, Ch. 476, L. 1979; amd. Sec. 1, Ch. 648, L. 1979; amd. Sec; 1, I.M. No. 86, approved Nov. 4, 1980; amd. Sec. 1, Ch. 548, L. 1981; amd. Sec. 1, Ch. 289, L. 1989; amd. Sec. 1, Ch. 823, L. 1991; amd. Sec. 1, Ch. 14, Sp. L. July 1992; amd. Sec. 26, Ch. 10, L. 1993; amd. Sec. 1, Ch. 634, L. 1993 (voided by I.R. No. 112, Nov. 8, 1994); amd. Sec. 65, Ch. 42, L. 1997; amd. Sec. 1, Ch. 31, L. 1999; amd. Sec. 2, Ch. 143, L. 2001; amd. Sec. 1, Ch. 225, L. 2003; amd. Sec. 42, Ch. 544, L. 2003; Sec. 15-30-101, MCA 2007; redes. 15-30-2101 by Sec. 1, Ch. 147, L. 2009; amd. Sec. 1, Ch. 401, L. 2009; amd. Sec. 1, Ch. 418, L. 2015.



Montana Secretary of State Corey Stapleton

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42.2.304 DEFINITIONS

The terms used by the department are, in great part, defined in Titles 15, 16, 39, and 72, MCA. In addition to these statutory definitions, the following definitions apply to ARM Title 42, unless context of a particular chapter or rule provides otherwise:

- (1) "Amended return" is a return that amends the original return defined in (36).
- (2) "Ancestor" means a lineal ancestor and a collateral ancestor if related by blood. Sections [72-11-102](#), [72-11-103](#), and [72-11-104](#), MCA, describe how kinship and degrees of kinship are determined.
- (3) "Annual accounting period" means the accounting period used for federal income tax purposes.
- (4) "Association" means an organization of people having a common interest.
- (5) "Business activity" refers to the transactions and activity occurring in the regular course of a particular trade or business of a taxpayer.
- (6) "Calendar year" means a 12-month period beginning January 1 and ending December 31.
- (7) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services. Payments made to an independent contractor or any other person not properly classifiable as an employee are excluded. Only amounts paid directly to employees are included in the payroll factor. Amounts considered paid directly include the value of board, rent, housing, lodging, and other benefits or services furnished to employees by the taxpayer in return for personal services; provided, that such amounts constitute income to the recipient under the federal IRC. In the case of employees not subject to the federal IRC, e.g., those employed in foreign countries, the determination of whether such benefits or services would constitute income to the employees shall be made as though such employees were subject to the federal IRC.
- (8) "Contiguous parcels of land" means separate land acreage in the same ownership that are adjacent.
- (9) "Corporation" or "C corporation" means a corporation, limited liability company, or other entity treated as an association for federal income tax purposes. The term does not include an S corporation or a disregarded entity. The term includes a regulated investment company (RIC) as defined in IRC 851, a real estate investment trust (REIT) as defined in IRC 856, and a corporation that has elected to be treated as a real estate mortgage investment conduit (REMIC) as provided in IRC 860D.
- (10) "Deficiency assessment" means an amount greater than the amount disclosed on a return or report filed with the department.
- (11) "Department" means the Department of Revenue as defined in [2-15-1301](#), MCA.
- (12) "Dependent" means any individual listed in [15-30-2115](#), MCA, as amended, over one-half of whose support for the calendar year in which the taxable year of the taxpayer begins was received from the taxpayer. In determining whether or not an individual received for a given calendar year over one-half of his support from the taxpayer, there shall be taken into account the amount of support received from the taxpayer as compared to the entire amount of support the individual received from all sources, including support which the individual himself supplied.
- (13) "Descendant" means a lineal descendant and a collateral descendant related by blood. Sections [72-11-102](#), [72-11-103](#), and [72-11-104](#), MCA, describe how kinship and degrees of kinship are determined.
- (14) "Discretion" means the power to do or to refrain from doing a certain thing.

(15) "Disregarded entity" means a business entity that is disregarded as an entity separate from its owner(s) for federal income tax purposes. The term includes a limited liability company with one owner, a qualified subchapter S subsidiary not treated as a separate corporation, and a partnership, syndicate, group, pool, joint venture, or other unincorporated organization electing under IRC 761 to be excluded from application of partnership tax rules. A corporation is not a disregarded entity by virtue of being included in a federal consolidated return.

(16) "Domiciled" means having a residence in the state of Montana as stated in [1-1-215](#), MCA.

(17) "Earned income" means:

(a) wages, salaries, or professional fees, and other amounts received as compensation for personal services actually rendered; and

(b) the amount of the taxpayer's net earnings from a trade or business which is wholly or partially subject to the federal self-employment tax.

(18) "Economic hardship" means the financial inability of the taxpayer to pay a tax when the tax is due as determined by the department through a review of various financial documents and inquiries.

(19) "Employee" means:

(a) Any individual who performs services for another individual or organization having the right to control the employee as to the services to be performed and as to the manner of performance. The power to control, rather than the actual exercise of control, is the important factor. Designation of an individual as, or determination by an appropriate authority that an individual is an employee for purposes of industrial accident insurance (workers' compensation), unemployment compensation, federal Social Security, or federal withholding tax will establish that person as an employee.

(b) All classes or grades of employees are included within the relationship of employer and employee. Thus, superintendents, managers, other supervisory personnel, and corporate officers are employees.

(20) "Employer" means any person or organization for whom an individual performs any service as an employee. However, if the person or organization for whom an individual performs services does not have control of the compensation payments, the term employer means the person or organization having control of the payment of such compensation. State income tax withheld, or that should have been withheld, and will be collected from the person or organization having control of the payment of such compensation.

(a) An employer may be an individual, corporation, limited liability company, partnership, estate, trust, association, joint venture, or other unincorporated group or entity. The term employer also includes all religious, educational, charitable, and social organizations or societies and all governmental agencies at the federal, state, and local level, including school districts, towns, counties, and other political subdivisions.

(21) "Final order" means an order entered by the department or a court of review which either has not been appealed on a timely basis or to which no appeal is available.

(22) "Fiscal year" means any 12-month period ending on the last day of any month other than December.

(23) "Household" means a family living together.

(24) "Immediate family member" means any individual who is a lineal descendant of the taxpayer and also includes their spouse. Stepchildren are considered lineal descendants if that relationship was created before the child's eighteenth birthday.

(25) "Incorporated city or town" means any municipality or county area in which the government body has complied with all incorporation provisions outlined in Title 7, MCA.

(26) "Information return" means a pass-through entity information return described in ARM [42.9.301](#), [42.9.401](#), [42.9.501](#), [42.9.510](#), [42.9.520](#), [42.9.530](#), and [42.9.540](#).

(27) "Internal Revenue Code" (IRC) means the Internal Revenue Code of 1986, as amended.

(28) "Internal Revenue Service" (IRS), means the federal bureau of the Department of the Treasury of the United States of America with the duties set forth in 26 USCA 8022.

(29) "Limited liability company" has the same meaning given it in the Montana Limited Liability Company Act, Title 35, chapter 8, MCA, and includes limited liability companies formed under the laws of Montana and the laws of other states and foreign countries.

(30) "Lookback period," for purposes of the voluntary disclosure program, means the filing periods agreed upon for which returns must be filed and all taxes and statutory interest must be paid under a voluntary disclosure agreement.

(31) "Manufacturer" means any person who produces a product for the purpose of resale.

(32) "Montana source income" is defined in [15-30-2101](#), MCA, and the statute should be consulted to determine whether particular income is "Montana source income" obligating a nonresident to file a Montana individual income tax return, and a pass-through entity to file a Montana information return. In general, all income from work performed in the state, real or personal property located in the state, and business conducted in the state is Montana source income. Gain realized from transfer of real or personal property located in the state remains Montana source income notwithstanding that recognition of the gain is deferred and regardless of the deferral mechanism.

(a) Gain realized from an installment sale of Montana property retains its Montana source income character and must be reported as the payments are received.

(b) Gain realized on the transfer of Montana property in a like-kind exchange retains its Montana source income character and must be reported when the gain is recognized in a subsequent taxable transaction.

(33) "Noncontiguous parcels of land" means land acreage in the same ownership that meets one of the two following standards:

(a) acreages that do not touch, but are each an integral part of the operation of a bona fide agricultural operation; or

(b) acreages that would meet the definition of contiguous contained in (8) were the acreages not separated by one or more of the following features only:

- (i) roads and highways;
- (ii) navigable rivers and streams;
- (iii) local taxing authority boundaries;
- (iv) railroad lines; or
- (v) federal or state land that is leased from the federal or state government by a

taxpayer whose land ownership is contiguous to the federal or state land.

(34) "Neglect" means the failure to exercise ordinary business care and prudence.

(35) "Nonresident" means any individual, estate, trust, partnership, or other organization, excluding corporations, not a resident of Montana.

(36) "Notice of Assessment (NOA)" means the first notice provided to the taxpayer of an amount owed to the department or of a violation. It may include, but is not limited to, a notice of refund reduction, net operating loss adjustment, tax debt, fine, or notice of a violation of the laws administered by the department. It does not include notices pertaining to inheritance taxes, estate taxes, or liquor licensing matters.

(37) "Original return" means the return required to be filed on or before the due date.

(38) "Ownership interest" means the involvement in the business operated by someone who owns some or all of the assets of the business, shares in the financial risks, is entitled to any portion of the profits, or any portion of the liabilities and losses of the business. Ownership interest includes the right to control the location or ownership of a business. Examples of ownership interests include the authority to participate in such business decisions as sale of the business, relocation of the business, change or creation of any financial arrangements for loan repayment or funding sources, or any other responsibilities regarding the management of the business. This definition applies to an ownership interest for purposes of rules contained in the ARM Title 42, unless otherwise specified by law.

(39) "Paid" and "received" are construed in the context of an acceptable accounting method used to compute taxable income.

(40) "Partnership" means any partnership, including a general partnership, a limited partnership, a limited liability partnership, a professional partnership, or any other entity, treated as a partnership for federal income tax purposes. The term includes an unincorporated entity that has elected to be treated as a real estate mortgage investment conduit (REMIC) as provided in IRC 860D.

(41) "Pass-through entity" means a partnership, an S corporation, and a disregarded entity.

(42) "Pass-through entity information return" means the same as (26).

(43) "Payee" means a person to whom or to whose order a bill, note, check, or money order is made payable.

(44) "Person" means an individual, estate, trust, receiver, firm, partnership, corporation, cooperative association, limited liability company, joint venture, syndicate, or other business entity, however formed.

(a) A person may not include:

(i) federal government entities or their subdivisions; or

(ii) enrolled Native American entities, including tribal offices or businesses owned by the tribe and operating on the tribal reservation.

(45) "Qualified entity," for purposes of the voluntary disclosure program, is a corporation, trust, limited liability company, or partnership that meets the conditions in ARM [42.2.310](#).

(46) "Qualified individual," for purposes of the voluntary disclosure program, is an individual who meets the conditions in ARM [42.2.310](#), or is a beneficiary of a trust that meets the conditions in [42.2.310](#).

(47) "Qualified partner," for purposes of the voluntary disclosure program, is an individual or entity who is treated as a partner of a qualified entity for federal income tax purposes and who themselves meets the conditions of ARM [42.2.310](#).

(48) "Qualified shareholder," for purposes of the voluntary disclosure program, is a shareholder in an S corporation that is a qualified entity as defined in (44), and who themselves meets the conditions of ARM [42.2.310](#).

(49) "Quarter" means quarters that end:

- (a) March 31;
- (b) June 30;
- (c) September 30; and
- (d) December 31.

(50) "Reasonable cause" means the taxpayer exercised ordinary business care and prudence and was nevertheless unable to file the return, pay the tax within the prescribed time, or object to a department action as provided for in ARM [42.2.510](#). Examples of what does or does not constitute reasonable cause may be found in ARM [42.2.512](#).

(51) "Reasonable time" means within five years or the normal statute of limitations, whichever is later.

(52) "Residence" means the same as (16).

(53) "Resident" means natural persons and includes, for the purpose of determining liability to the tax imposed by the state, any person domiciled in the state of Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and who has not established a residence elsewhere.

(54) "Retail business" means individuals, firms, fiduciaries, partnerships, corporations, trusts, organizations, or associations engaged in the business of selling products to the consumer.

(55) "Return information" includes a taxpayer's identity, the nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, over-assessments or tax payments, or any other data received by, recorded by, prepared by, furnished to, or collected by the department with respect to a return or with respect to the determination of the existence or possible existence of liability or the amount of liability of any person under Title 15, MCA, for any tax, penalty, interest, fine, forfeiture, or other imposition of any offense. The term does not include data in a form that cannot be associated with or otherwise identify, directly or indirectly, a particular taxpayer.

(56) "S corporation" means an incorporated entity for which a valid federal S corporation election is in effect. "S corporation" and "subchapter S corporation" are synonymous. The term "small business corporation" is also synonymous with "S corporation," except that certain S corporations are allowed to continue to file Montana corporation license tax returns as provided in [15-30-3301](#), MCA.

(57) "Settlement" means a compromise, agreement, or arrangement between parties which, in consideration of mutual concessions, terminates a dispute.

(58) "Situs" means location.

(59) "Statement of Account (SOA)" means a notice provided to the taxpayer summarizing amounts owed to the department.

(60) "Support" includes food, shelter, clothing, medical and dental care, education, and the like. Generally, the amount of an item of support will be the amount of expense incurred by the one furnishing such item. However, if the item of support furnished is in the form of property or lodging, it will be necessary to measure the amount of such item in terms of its fair market value.

(61) "Taxable year," as stated in section 441(b) of the IRC, means:

- (a) the taxpayer's annual accounting period, if it is a calendar year or a fiscal year;
- (b) the calendar year if the taxpayer does not keep books or does not have an annual accounting period that qualifies as a fiscal year; or

(c) the period for which the return is made, if a return is made for a period of less than 12 months, the so-called "short period" defined under section 443 of the IRC. Generally, a taxable year cannot cover more than 12 calendar months.

(62) "Taxpayer" means any person (which may include any corporation, partnership, firm, association, or person acting as a business entity) or fiduciary, resident or nonresident, subject

but not limited to, a tax, license fee, royalty, or permit imposed by the state of Montana or a liability for payment of a debt collected by the department.

(63) "Write-off of collection" means removal of an assessment from active department enforcement and monitoring procedures, and does not mean a tax assessment is forgiven.

History: [15-1-201](#), [15-30-2620](#), [15-31-501](#), [16-1-303](#), [16-10-104](#), [16-11-103](#), MCA; [IMP](#), [1-1-215](#), [15-1-102](#), [15-1-206](#), [15-1-601](#), [15-30-2101](#), [15-30-2104](#), [15-30-2111](#), [15-30-2602](#), [15-30-3301](#), [15-30-3302](#), [15-30-3311](#), [15-30-3312](#), [15-30-3313](#), [15-30-3321](#), [15-31-101](#), [15-31-111](#), MCA; [NEW](#), 2000 MAR p. 3557, Eff. 12/22/00; [AMD](#), 2002 MAR p. 3708, Eff. 12/27/02; [AMD](#), 2006 MAR p. 85, Eff. 1/13/06; [AMD](#), 2006 MAR p. 340, Eff. 2/10/06; [AMD](#), 2008 MAR p. 340, Eff. 2/15/08; [AMD](#), 2014 MAR p. 1527, Eff. 7/11/14; [AMD](#), 2016 MAR p. 2073, Eff. 11/11/16.

MAR Notices	Effective From	Effective To	History Notes
42-2-963	11/11/2016	Current	History: 15-1-201 , 15-30-2620 , 15-31-501 , 16-1-303 , 16-10-104 , 16-11-103 , MCA; IMP , 1-1-215 , 15-1-102 , 15-1-206 , 15-1-601 , 15-30-2101 , 15-30-2104 , 15-30-2111 , 15-30-2602 , 15-30-3301 , 15-30-3302 , 15-30-3311 , 15-30-3312 , 15-30-3313 , 15-30-3321 , 15-31-101 , 15-31-111 , MCA; NEW , 2000 MAR p. 3557, Eff. 12/22/00; AMD , 2002 MAR p. 3708, Eff. 12/27/02; AMD , 2006 MAR p. 85, Eff. 1/13/06; AMD , 2006 MAR p. 340, Eff. 2/10/06; AMD , 2008 MAR p. 340, Eff. 2/15/08; AMD , 2014 MAR p. 1527, Eff. 7/11/14; AMD , 2016 MAR p. 2073, Eff. 11/11/16.
42-2-907	7/11/2014	11/11/2016	History: 15-1-201 , 15-30-2620 , 15-31-501 , 16-1-303 , 16-10-104 , 16-11-103 , MCA; IMP , 1-1-215 , 15-1-102 , 15-1-206 , 15-1-601 , 15-30-2101 , 15-30-2104 , 15-30-2111 , 15-30-2602 , 15-30-3301 , 15-30-3302 , 15-30-3311 , 15-30-3312 , 15-30-3313 , 15-30-3321 , 15-31-101 , 15-31-111 , MCA; NEW , 2000 MAR p. 3557, Eff. 12/22/00; AMD , 2002 MAR p. 3708, Eff. 12/27/02; AMD , 2006 MAR p. 85, Eff. 1/13/06; AMD , 2006 MAR p. 340, Eff. 2/10/06; AMD , 2008 MAR p. 340, Eff. 2/15/08; AMD , 2014 MAR p. 1527, Eff. 7/11/14.
42-2-792	2/15/2008	7/11/2014	History: 15-1-201 , 15-30-305 , 15-31-501 , 16-1-303 , 16-10-104 , 16-11-103 , MCA; IMP , 15-1-102 , 15-1-206 , 15-1-601 , 15-30-101 , 15-30-105 , 15-30-131 , 15-30-142 , 15-30-1101 , 15-30-1102 , 15-30-1111 , 15-30-1112 , 15-30-1113 , 15-30-1121 , 15-31-101 , 15-31-111 , Title 15, chapter 31, part 3, MCA; NEW , 2000 MAR p. 3557, Eff. 12/22/00; AMD , 2002 MAR p. 3708, Eff. 12/27/02; AMD , 2006 MAR p. 85, Eff. 1/13/06; AMD , 2006 MAR p. 340, Eff. 2/10/06; AMD , 2008 MAR p. 340, Eff. 2/15/08.
	2/10/2006	2/15/2008	History: 15-1-201 , 15-30-305 , 15-31-501 , 16-1-303 , 16-10-104 , 16-11-103 , MCA; IMP , 15-1-102 , 15-1-601 , 15-30-101 , 15-30-105 , 15-30-131 , 15-30-1101 , 15-30-1102 , 15-30-1111 , 15-30-1112 , 15-30-1113 , 15-30-1121 , 15-31-101 , Title 15, chapter 31, part 3, MCA; NEW , 2000 MAR p. 3557, Eff. 12/22/00; AMD , 2002 MAR p. 3708, Eff. 12/27/02; AMD , 2006 MAR p. 85, Eff. 1/13/06; AMD , 2006 MAR p. 340, Eff. 2/10/06.

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