



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2017 Biennium

Bill # SB0167

Title: Update tax haven laws

Primary Sponsor: Barrett, Dick

Status: As Introduced

- | | | |
|-----------------------------------------------------------|--------------------------------------------------------|----------------------------------------------------------|
| <input type="checkbox"/> Significant Local Gov Impact | <input type="checkbox"/> Needs to be included in HB 2 | <input type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	FY 2016 Difference	FY 2017 Difference	FY 2018 Difference	FY 2019 Difference
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$1,171,000	\$1,171,000	\$1,171,000	\$1,171,000
Net Impact-General Fund Balance:	\$1,171,000	\$1,171,000	\$1,171,000	\$1,171,000

Description of fiscal impact: SB 167 revises the criteria related to the water's edge election for corporate income taxes by changing the list of countries considered tax haven jurisdictions. It allows affected taxpayers to rescind a prior water's edge election. The bill increases general fund revenue by about \$1.2 million per year.

FISCAL ANALYSIS

Assumptions:

1. The bill revises the criteria for countries considered tax haven as they relate to the water's edge election for corporate income taxes. It allows affected taxpayers to rescind a prior water's edge election.
2. Under Montana law a water's edge taxpayer's foreign affiliate that is incorporated in certain countries is not allowed to be excluded from the combined group report. These countries, called tax havens, are specified in statute (15-31-322(1)(f), MCA). The bill adds several countries to the list and removes several others
3. Montana requires C corporations that have common ownership and that are part of a common line of business to file a combined report. The intent of requiring a combined group report is to make the calculation of total taxable income independent of financial or legal arrangements between group members, and to more accurately reflect the business income of the total enterprise.
4. The taxable income of the combined or "unitary" group, after adjustments required under state law, is apportioned to Montana based upon the apportionment factor of the group. Montana does not tax all the income of a combined group, but only the income apportioned to Montana using the apportionment factor.

The apportionment factor is a ratio based on the taxpayer’s sales, property and payroll in Montana, relative to the taxpayer’s total sales, property and payroll.

5. The normal corporate income tax rate is 6.75%. This rate is applied to the share of the group’s total income apportioned to Montana and its Montana source income. Under current state law, a corporation has the option to file as a water’s edge corporation, which means that its foreign affiliates who meet certain criteria, can be left out of the combined report, and those affiliates’ income and apportionment factors (sales, property and payroll) are excluded from calculation of the taxpayer’s Montana taxable income. A water’s edge corporation pays a 7% state tax rate on its Montana taxable income. The water’s edge election is effective for three consecutive taxable periods.
6. The Department of Revenue (DOR) estimates that the current tax haven statute has brought in \$7.2 million in TY 2010, about \$4.3 million in TY 2011, and \$4.0 million in TY 2012 (the last two years do not include audit related collections).
7. DOR’s research indicates that in TY 2010, had these changes been in effect, the additional revenue would have been about \$1.171 million. In TY 2013 the additional revenue would have been \$772 thousand, although this estimate is incomplete. For purposes of this fiscal note, it is assumed that the provisions of the bill will increase total general fund revenue by \$1.171 million.
8. This bill does not affect most corporate income taxpayers in Montana. In the most recent, complete tax year database of returns, 365 of the 16,790 filers elected to file as water’s edge taxpayers.
9. Provisions of the bill are effective upon passage and approval and apply to tax years beginning after December 31, 2014.

<u>Fiscal Impact:</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>
Department of Revenue	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u>				
TOTAL Expenditures	\$0	\$0	\$0	\$0
<u>Funding of Expenditures:</u>				
TOTAL Funding of Exp.	\$0	\$0	\$0	\$0
<u>Revenues:</u>				
General Fund (01)	\$1,171,000	\$1,171,000	\$1,171,000	\$1,171,000
TOTAL Revenues	\$1,171,000	\$1,171,000	\$1,171,000	\$1,171,000
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	\$1,171,000	\$1,171,000	\$1,171,000	\$1,171,000

Sponsor’s Initials

Date

Budget Director’s Initials

Date