

SENATE BILL NO. 124

INTRODUCED BY G. HERTZ

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING APPORTIONMENT OF INCOME FOR PURPOSES OF MONTANA'S CORPORATE INCOME TAX; ADOPTING A SINGLE-SALES FACTOR APPORTIONMENT MODEL FOR PURPOSES OF MONTANA'S CORPORATE INCOME TAX; AMENDING SECTIONS 15-1-601, 15-30-2104, 15-30-3313, 15-31-122, 15-31-310, 15-31-311, 15-31-312, 15-31-403, AND 15-31-406, MCA; REPEALING SECTIONS 15-31-306, 15-31-307, 15-31-308, AND 15-31-309, MCA; AND PROVIDING ~~AN IMMEDIATE EFFECTIVE~~ A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-1-601, MCA, is amended to read:

"15-1-601. Compact adopted -- text. The Multistate Tax Compact is enacted into law and entered into with all jurisdictions legally joining in the compact, in the form substantially as set forth in this section. Article VIII of the Multistate Tax Compact relating to interstate audits is specifically adopted.

Article I. Purposes

The purposes of this compact are to:

- (1) facilitate proper determination of state and local tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes;
- (2) promote uniformity or compatibility in significant components of tax systems;
- (3) facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration;
- (4) avoid duplicative taxation.

Article II. Definitions

As used in this compact:

- (1) "capital stock tax" means a tax measured in any way by the capital of a corporation considered in its entirety;

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1 (2) "gross receipts tax" means a tax, other than a sales tax, which is imposed on or measured by
2 the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no
3 deduction is allowed which would constitute the tax an income tax;

4 (3) "income tax" means a tax imposed on or measured by net income including any tax imposed
5 on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of
6 which expenses are not specifically and directly related to particular transactions;

7 (4) "sales tax" means a tax imposed with respect to the transfer for a consideration of ownership,
8 possession, or custody of tangible personal property or the rendering of services measured by the price of the
9 tangible personal property transferred or services rendered and which is required by state or local law to be
10 separately stated from the sales price by the seller or which is customarily separately stated from the sales
11 price but does not include a tax imposed exclusively on the sale of a specifically identified commodity or article
12 or class of commodities or articles;

13 (5) "state" means a state of the United States, the District of Columbia, the Commonwealth of
14 Puerto Rico, or any territory or possession of the United States;

15 (2)(6) "subdivision" means any government unit or special district of a state;

16 (7) "tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any
17 other tax which has a multistate impact, except that the provisions of Articles III, IV, and V of this compact shall
18 apply only to the taxes specifically designated therein and the provisions of Article IX of this compact shall apply
19 only in respect to determinations pursuant to Article IV.

20 (3)(8) "taxpayer" means any corporation, partnership, firm, association, governmental unit or agency,
21 or person acting as a business entity in more than one state;

22 (4) "income tax" means a tax imposed on or measured by net income including any tax imposed
23 on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of
24 which expenses are not specifically and directly related to particular transactions;

25 (5) "capital stock tax" means a tax measured in any way by the capital of a corporation considered
26 in its entirety;

27 (6) "gross receipts tax" means a tax, other than a sales tax, which is imposed on or measured by
28 the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no

1 deduction is allowed which would constitute the tax an income tax;

2 (7) ~~—"sales tax" means a tax imposed with respect to the transfer for a consideration of ownership,~~
3 ~~possession, or custody of tangible personal property or the rendering of services measured by the price of the~~
4 ~~tangible personal property transferred or services rendered and which is required by state or local law to be~~
5 ~~separately stated from the sales price by the seller or which is customarily separately stated from the sales~~
6 ~~price but does not include a tax imposed exclusively on the sale of a specifically identified commodity or article~~
7 ~~or class of commodities or articles;~~

8 (8)(9) "use tax" means a nonrecurring tax, other than a sales tax, which:

9 (a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible
10 personal property incident to the ownership, possession, or custody of that property or the leasing of that
11 property from another including any consumption, keeping, retention, or other use of tangible personal property;
12 and

13 (b) is complementary to a sales tax;

14 (9) ~~—"tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any~~
15 ~~other tax which has a multistate impact, except that the provisions of Articles III, IV, and V of this compact shall~~
16 ~~apply only to the taxes specifically designated therein and the provisions of Article IX of this compact shall apply~~
17 ~~only in respect to determinations pursuant to Article IV.~~

18 Article III. Elements Of of Income Tax Laws

19 Taxpayer Option, State and Local Taxes

20 (1) Any taxpayer subject to an income tax whose income is subject to apportionment and
21 allocation for tax purposes pursuant to the laws of a party state or pursuant to the laws of subdivisions in two or
22 more party states may elect to apportion and allocate the taxpayer's income in the manner provided by the laws
23 of such state or by the laws of such states and subdivisions without reference to this compact or may elect to
24 apportion and allocate in accordance with Article IV. This election for any tax year may be made in all party
25 states or subdivisions thereof or in any one or more of the party states or subdivisions thereof without reference
26 to the election made in the others. For the purposes of this subsection, taxes imposed by subdivisions shall be
27 considered separately from state taxes and the apportionment and allocation also may be applied to the entire
28 tax base. In no instance wherein Article IV is employed for all subdivisions of a state may the sum of all

1 apportionments and allocations to subdivisions within a state be greater than the apportionment and allocation
2 that would be assignable to that state if the apportionment or allocation were being made with respect to a state
3 income tax.

4 Taxpayer Option, Short Form

5 (2) Each party state or any subdivision thereof which imposes an income tax shall provide by law
6 that any taxpayer required to file a return whose only activities within the taxing jurisdiction consist of sales and
7 do not include owning or renting real estate or tangible personal property and whose dollar volume of gross
8 sales made during the tax year within the state or subdivision, as the case may be, is not in excess of \$100,000
9 may elect to report and pay any tax due on the basis of a percentage of such volume and shall adopt rates
10 which shall produce a tax which reasonably approximates the tax otherwise due. The multistate tax
11 commission, not more than once in 5 years, may adjust the \$100,000 figure in order to reflect such changes as
12 may occur in the real value of the dollar, and such adjusted figure, upon adoption by the commission, shall
13 replace the \$100,000 figure specifically provided herein. Each party state and subdivision thereof may make the
14 same election available to taxpayers additional to those specified in this subsection.

15 Coverage

16 (3) Nothing in this article relates to the reporting or payment of any tax other than an income tax.

17 Article IV. Division ~~Of~~of Income

18 (1) As used in this article, unless the context otherwise requires:

19 (a) "apportionable income" means:

20 (i) all income that is apportionable under the Constitution of the United States and is not allocated
21 under the laws of this state, including:

22 (A) income arising from transactions and activity in the regular course of the taxpayer's trade or
23 business, and

24 (B) income arising from tangible and intangible property if the acquisition, management,
25 employment, development, or disposition of the property is or was related to the operation of the taxpayer's
26 trade or business; and

27 (ii) any income that would be allocable to this state under the Constitution of the United States but
28 that is apportioned rather than allocated pursuant to the laws of this state;

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Drafter: Jaret Coles, 406-444-4022

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1 (b) "commercial domicile" means the principal place from which the trade or business of the
2 taxpayer is directed or managed;

3 ~~(e) "compensation" means wages, salaries, commissions, and any other form of remuneration paid to~~
4 ~~employees for personal services;~~

5 ~~(d)(c)~~ "financial organization" means any bank, trust company, savings bank, industrial bank, land
6 bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank,
7 small loan company, sales finance company, investment company, or any type of insurance company;

8 ~~(e)(d)~~ "nonapportionable income" means all income other than apportionable income;

9 ~~(f)(e)~~ "public utility" means any business entity:

10 (i) which owns or operates any plant, equipment, property, franchise, or license for the
11 transmission of communications, transportation of goods or persons, except by pipeline, or the production,
12 transmission, sale, delivery, or furnishing of electricity, water, or steam; and

13 (ii) whose rates of charges for goods or services have been established or approved by a federal,
14 state, or local government or governmental agency;

15 ~~(g)(f)~~ "receipts" means all gross receipts of the taxpayer that are not allocated under paragraphs of
16 this article and that are received from transactions and activity in the regular course of the taxpayer's trade or
17 business, except that receipts of a taxpayer from hedging transactions and from the maturity, redemption, sale,
18 exchange, loan, or other disposition of cash or securities shall be excluded;

19 ~~(h)(g)~~ "state" means any state of the United States, the District of Columbia, the Commonwealth of
20 Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision
21 thereof;

22 ~~(i)(h)~~ "this state" means the state in which the relevant tax return is filed or, in the case of application
23 of this article to the apportionment and allocation of income for local tax purposes, the subdivision or local
24 taxing district in which the relevant tax return is filed.

25 (2) Any taxpayer having income from business activity which is taxable both within and without this
26 state, other than activity as a financial organization or public utility or the rendering of purely personal services
27 by an individual, shall allocate and apportion the taxpayer's net income as provided in this article. If a taxpayer
28 has income from business activity as a public utility but derives the greater percentage of the taxpayer's income

1 from activities subject to this article, the taxpayer may elect to allocate and apportion the taxpayer's entire net
2 income as provided in this article.

3 (3) For purposes of allocation and apportionment of income under this article, a taxpayer is taxable
4 in another state if:

5 (a) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net
6 income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

7 (b) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in
8 fact, the state does or does not do so.

9 (4) Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or
10 patent or copyright royalties, to the extent that they constitute nonapportionable income, shall be allocated as
11 provided in subsections (5) through (8) of this article.

12 (5) (a) Net rents and royalties from real property located in this state are allocable to this state.

13 (b) Net rents and royalties from tangible personal property are allocable to this state:

14 (i) if and to the extent that the property is utilized in this state; or

15 (ii) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not
16 organized under the laws of or taxable in the state in which the property is utilized.

17 (c) The extent of utilization of tangible personal property in a state is determined by multiplying the
18 rents and royalties by a fraction, the numerator of which is the number of days of physical location of the
19 property in the state during the rental or royalty period in the taxable year and the denominator of which is the
20 number of days of physical location of the property everywhere during all rental or royalty periods in the taxable
21 year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by
22 the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the
23 rental or royalty payer obtained possession.

24 (6) (a) Capital gains and losses from sales of real property located in this state are allocable to this
25 state.

26 (b) Capital gains and losses from sales of tangible personal property are allocable to this state if:

27 (i) the property had a situs in this state at the time of the sale; or

28 (ii) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in

1 which the property had a situs.

2 (c) Capital gains and losses from sales of intangible personal property are allocable to this state if
3 the taxpayer's commercial domicile is in this state.

4 (7) Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this
5 state.

6 (8) (a) Patent and copyright royalties are allocable to this state:

7 (i) if and to the extent that the patent or copyright is utilized by the payer in this state; or

8 (ii) if and to the extent that the patent or copyright is utilized by the payer in a state in which the
9 taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

10 (b) A patent is utilized in a state to the extent that it is employed in production, fabrication,
11 manufacturing, or other processing in the state or to the extent that a patented product is produced in the state.
12 If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures
13 do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile
14 is located.

15 (c) A copyright is utilized in a state to the extent that printing or other publication originates in the
16 state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting
17 procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's
18 commercial domicile is located.

19 (9) All apportionable income shall be apportioned to this state by multiplying the income by a
20 ~~fraction, the numerator of which is the property factor plus the payroll factor plus two times the receipts factor~~
21 ~~and the denominator of which is 4 the receipts factor.~~

22 ~~(10) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real~~
23 ~~and tangible personal property owned or rented and used in this state during the tax period and the~~
24 ~~denominator of which is the average value of all the taxpayer's real and tangible personal property owned or~~
25 ~~rented and used during the tax period.~~

26 ~~(11) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is~~
27 ~~valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the~~
28 ~~taxpayer less any annual rental rate received by the taxpayer from subrentals.~~

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1 ~~(12) The average value of property shall be determined by averaging the values at the beginning and~~
2 ~~ending of the tax period, but the tax administrator may require the averaging of monthly values during the tax~~
3 ~~period if reasonably required to reflect properly the average value of the taxpayer's property.~~

4 ~~(13) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during~~
5 ~~the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid~~
6 ~~everywhere during the tax period.~~

7 ~~(14) Compensation is paid in this state if:~~

8 ~~(a) the individual's service is performed entirely within the state;~~

9 ~~(b) the individual's service is performed both within and without the state, but the service performed~~
10 ~~without the state is incidental to the individual's service within the state; or~~

11 ~~(c) some of the service is performed in the state and:~~

12 ~~(i) the base of operations or, if there is no base of operations, the place from which the service is~~
13 ~~directed or controlled is in the state; or~~

14 ~~(ii) the base of operations or the place from which the service is directed or controlled is not in any~~
15 ~~state in which some part of the service is performed, but the individual's residence is in this state.~~

16 ~~(15)(10) _____~~ The receipts factor is a fraction, the numerator of which is the total receipts of the
17 taxpayer in this state during the tax period and the denominator of which is the total receipts of the taxpayer
18 everywhere during the tax period.

19 ~~(16)(11) _____~~ Receipts from the sale of tangible personal property are in this state if:

20 (a) the property is delivered or shipped to a purchaser, other than the United States government,
21 within this state regardless of the f.o.b. point or other conditions of the sale; or

22 (b) the property is shipped from an office, store, warehouse, factory, or other place of storage in
23 this state and:

24 (i) the purchaser is the United States government; or

25 (ii) the taxpayer is not taxable in the state of the purchaser.

26 ~~(17)(12) _____~~ (a) Receipts, other than receipts described in subsection ~~(16) (11)~~, are in this state if
27 the taxpayer's market for the sales is in this state. The taxpayer's market for sales is in this state:

28 (i) in the case of sale, rental, lease, or license of real property, if and to the extent the property is

1 located in this state;

2 (ii) in the case of rental, lease, or license of tangible personal property, if and to the extent the
3 property is located in this state;

4 (iii) in the case of sale of a service, if and to the extent the service is delivered to a location in this
5 state; and

6 (iv) in the case of intangible property:

7 (A) that is rented, leased, or licensed, if and to the extent the property is used in this state,
8 provided that intangible property utilized in marketing a good or service to a consumer is "used in this state" if
9 that good or service is purchased by a consumer who is in this state; and

10 (B) that is sold, if and to the extent the property is used in this state, provided that:

11 (I) a contract right, government license, or similar intangible property that authorizes the holder to
12 conduct a business activity in a specific geographic area is "used in this state" if the geographic area includes
13 all or part of this state;

14 (II) receipts from intangible property sales that are contingent on the productivity, use, or
15 disposition of the intangible property shall be treated as receipts from the rental, lease, or licensing of such
16 intangible property under subsection ~~(17)(a)(iv)(A)~~ (12)(a)(iv)(A); and

17 (III) all other receipts from a sale of intangible property shall be excluded from the numerator and
18 denominator of the receipts factor.

19 (b) If the state or states of assignment under subsection ~~(17)(a)~~ (12)(a) cannot be determined, the
20 state or states of assignment shall be reasonably approximated.

21 (c) If the taxpayer is not taxable in a state to which a receipt is assigned under subsection ~~(17)(a)~~
22 (12)(a) or ~~(17)(b)~~ (12)(b), or if the state of assignment cannot be determined under subsection ~~(17)(a)~~ (12)(a) or
23 reasonably approximated under subsection ~~(17)(b)~~ (12)(b), such receipt shall be excluded from the
24 denominator of the receipts factor.

25 (d) The tax administrator may prescribe regulations as necessary or appropriate to carry out the
26 purposes of this section.

27 ~~(18)(13)~~— (a) If the allocation and apportionment provisions of this article do not fairly represent
28 the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the tax administrator

1 may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

2 (i) separate accounting;

3 (ii) the exclusion of any one or more of the factors;

4 (iii) the inclusion of one or more additional factors which will fairly represent the taxpayer's
5 business activity in this state; or

6 (iv) the employment of any other method to effectuate an equitable allocation and apportionment of
7 the taxpayer's income.

8 (b) (i) If the allocation and apportionment provisions of this article do not fairly represent the extent
9 of business activity in this state of taxpayers engaged in a particular industry or in a particular transaction or
10 activity, the tax administrator may, in addition to the authority provided in section ~~(18)(a)~~ (13)(a), establish
11 appropriate rules or regulations for determining alternative allocation and apportionment methods for such
12 taxpayers.

13 (ii) A regulation adopted pursuant to this section shall be applied uniformly, except that with
14 respect to any taxpayer to whom such regulation applies, the taxpayer may petition for, or the tax administrator
15 may require, adjustment pursuant to subsection ~~(18)(a)~~ (13)(a).

16 (c) (i) The party petitioning for, or the tax administrator requiring, the use of any method to
17 effectuate an equitable allocation and apportionment of the taxpayer's income pursuant to subsection ~~(18)(a)~~
18 (13)(a) must prove by a preponderance of the evidence:

19 (A) that the allocation and apportionment provisions of this Article article do not fairly represent the
20 extent of the taxpayer's business activity in this state; and

21 (B) that the alternative to such provisions is reasonable.

22 (ii) The same burden of proof shall apply whether the taxpayer is petitioning for, or the tax
23 administrator is requiring, the use of any reasonable method to effectuate an equitable allocation and
24 apportionment of the taxpayer's income. Notwithstanding the previous sentence, if the tax administrator can
25 show that in any two of the prior five tax years, the taxpayer had used an allocation or apportionment method at
26 variance with its allocation or apportionment method or methods used for such other tax years, then the tax
27 administrator shall not bear the burden of proof in imposing a different method pursuant to ~~(18)(a)~~ (13)(a).

28 (d) If the tax administrator requires any method to effectuate an equitable allocation and

1 apportionment of the taxpayer's income, the tax administrator cannot impose any civil or criminal penalty with
2 reference to the tax due that is attributable to the taxpayer's reasonable reliance solely on the allocation and
3 apportionment provisions of this article.

4 (e) A taxpayer that has received written permission from the tax administrator to use a reasonable
5 method to effectuate an equitable allocation and apportionment of the taxpayer's income shall not have that
6 permission revoked with respect to transactions and activities that have already occurred unless there has been
7 a material change in, or a material misrepresentation of, the facts provided by the taxpayer upon which the tax
8 administrator reasonably relied.

9 Article V. Elements Of of Sales And and Use Tax Laws

10 Tax Credit

11 (1) Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit
12 for the combined amount or amounts of legally imposed sales or use taxes paid by the purchaser with respect
13 to the same property to another state and any subdivision thereof. The credit shall be applied first against the
14 amount of any use tax due the state, and any unused portion of the credit shall then be applied against the
15 amount of any use tax due a subdivision.

16 Exemption Certificates -- Vendors May Rely

17 (2) Whenever a vendor receives and accepts in good faith from a purchaser a resale or other
18 exemption certificate or other written evidence of exemption authorized by the appropriate state or subdivision
19 taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

20 Article VI. The Commission

21 Organization and Management

22 (1) (a) The Multistate Tax Commission is hereby established. It shall be composed of one member
23 from each party state who shall be the head of the state agency charged with the administration of the types of
24 taxes to which this compact applies. If there is more than one such agency, the state shall provide by law for
25 the selection of the commission member from the heads of the relevant agencies. State law may provide that a
26 member of the commission be represented by an alternate, but only if there is on file with the commission
27 written notification of the designation and identity of the alternate. The attorney general of each party state or
28 the attorney general's designee or other counsel if the laws of the party state specifically provide, shall be

1 entitled to attend the meetings of the commission but shall not vote. Such attorneys general, designees, or
2 other counsel shall receive all notices of meetings required under subsection (1)(e) of this article.

3 (b) Each party state shall provide by law for the selection of representatives from its subdivisions
4 affected by this compact to consult with the commission member from that state.

5 (c) Each member shall be entitled to one vote. The commission shall not act unless a majority of
6 the members are present, and no action shall be binding unless approved by a majority of the total number of
7 members.

8 (d) The commission shall adopt an official seal to be used as it may provide.

9 (e) The commission shall hold an annual meeting and such other regular meetings as its bylaws
10 may provide and such special meetings as its executive committee may determine. The commission bylaws
11 shall specify the dates of the annual and any other regular meetings and shall provide for the giving of notice of
12 annual, regular, and special meetings. Notice of special meetings shall include the reasons therefor and an
13 agenda of the items to be considered.

14 (f) The commission shall elect annually, from among its members, a presiding officer, a vice
15 presiding officer, and a treasurer. The commission shall appoint an executive director who shall serve at its
16 pleasure, and it shall fix the executive director's duties and compensation. The executive director shall be
17 secretary of the commission. The commission shall make provision for the bonding of such of its officers and
18 employees as it may deem appropriate.

19 (g) Irrespective of the civil service, personnel, or other merit system laws of any party state, the
20 executive director shall appoint or discharge such personnel as may be necessary for the performance of the
21 functions of the commission and shall fix their duties and compensation. The commission bylaws shall provide
22 for personnel policies and programs.

23 (h) The commission may borrow, accept, or contract for the services of personnel from any state,
24 the United States, or any other governmental entity.

25 (i) The commission may accept for any of its purposes and functions any and all donations and
26 grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any governmental
27 entity and may utilize and dispose of the same.

28 (j) The commission may establish one or more offices for the transacting of its business.

1 (k) The commission shall adopt bylaws for the conduct of its business. The commission shall
2 publish its bylaws in convenient form and shall file a copy of the bylaws and any amendments thereto with the
3 appropriate agency or officer in each of the party states.

4 (l) The commission annually shall make to the governor and legislature of each party state a
5 report covering its activities for the preceding year. Any donation or grant accepted by the commission or
6 services borrowed shall be reported in the annual report of the commission and shall include the nature,
7 amount, and conditions, if any, of the donation, gift, grant, or services borrowed and the identity of the donor or
8 lender. The commission may make additional reports as it may deem desirable.

9 Committees

10 (2) (a) To assist in the conduct of its business when the full commission is not meeting, the
11 commission shall have an executive committee of seven members, including the presiding officer, vice
12 presiding officer, treasurer, and four other members elected annually by the commission. The executive
13 committee, subject to the provisions of this compact and consistent with the policies of the commission, shall
14 function as provided in the bylaws of the commission.

15 (b) The commission may establish advisory and technical committees, membership on which may
16 include private persons and public officials, in furthering any of its activities. Such committees may consider any
17 matter of concern to the commission, including problems of special interest to any party state and problems
18 dealing with particular types of taxes.

19 (c) The commission may establish such additional committees as its bylaws may provide.

20 Powers

21 (3) In addition to powers conferred elsewhere in this compact, the commission shall have power to:

22 (a) study state and local tax systems and particular types of state and local taxes;

23 (b) develop and recommend proposals for an increase in uniformity or compatibility of state and
24 local tax laws with a view toward encouraging the simplification and improvement of state and local tax law and
25 administration;

26 (c) compile and publish information as in its judgment would assist the party states in
27 implementation of the compact and taxpayers in complying with state and local tax laws;

28 (d) do all things necessary and incidental to the administration of its functions pursuant to this

1 compact.

2 Finance

3 (4) (a) The commission shall submit to the governor or designated officer or officers of each party
4 state a budget of its estimated expenditures for such period as may be required by the laws of that state for
5 presentation to the legislature thereof.

6 (b) Each of the commission's budgets of estimated expenditures shall contain specific
7 recommendations of the amounts to be appropriated by each of the party states. The total amount of
8 appropriations requested under any such budget shall be apportioned among the party states as follows: one-
9 tenth in equal shares and the remainder in proportion to the amount of revenue collected by each party state
10 and its subdivisions from income taxes, capital stock taxes, gross receipts taxes, sales and use taxes. In
11 determining such amounts, the commission shall employ such available public sources of information as, in its
12 judgment, present the most equitable and accurate comparisons among the party states. Each of the
13 commission's budgets of estimated expenditures and requests for appropriations shall indicate the sources
14 used in obtaining information employed in applying the formula contained in this subsection (4)(b).

15 (c) The commission shall not pledge the credit of any party state. The commission may meet any
16 of its obligations in whole or in part with funds available to it under subsection (1)(i) of this article, provided that
17 the commission takes specific action setting aside such funds prior to incurring any obligation to be met in
18 whole or in part in such manner. Except where the commission makes use of funds available to it under
19 subsection (1)(i), the commission shall not incur any obligation prior to the allotment of funds by the party states
20 adequate to meet the same.

21 (d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts
22 and disbursements of the commission shall be subject to the audit and accounting procedures established
23 under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by
24 a certified or licensed public accountant, and the report of the audit shall be included in and become part of the
25 annual report of the commission.

26 (e) The accounts of the commission shall be open at any reasonable time for inspection by duly
27 constituted officers of the party states and by any person authorized by the commission.

28 (f) Nothing contained in this article shall be construed to prevent commission compliance with

1 laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of
2 the commission.

3 Article VII. Uniform Regulations ~~And~~ and Forms

4 (1) Whenever any two or more party states or subdivisions of party states have uniform or similar
5 provisions of law relating to an income tax, capital stock tax, gross receipts tax, sales or use tax, the
6 commission may adopt uniform regulations for any phase of the administration of such law, including assertion
7 of jurisdiction to tax or prescribing uniform tax forms. The commission may also act with respect to the
8 provisions of Article IV of this compact.

9 (2) Prior to the adoption of any regulation, the commission shall:

10 (a) as provided in its bylaws, hold at least one public hearing on due notice to all affected party
11 states and subdivisions thereof and to all taxpayers and other persons who have made timely request of the
12 commission for advance notice of its regulation-making proceedings;

13 (b) afford all affected party states and subdivisions and interested persons an opportunity to
14 submit relevant written data and views, which shall be considered fully by the commission.

15 (3) The commission shall submit any regulations adopted by it to the appropriate officials of all
16 party states and subdivisions to which they might apply. Each such state and subdivision shall consider any
17 such regulation for adoption in accordance with its own laws and procedures.

18 Article VIII. Interstate Audits

19 (1) This article shall be in force only in those party states that specifically provide therefor by
20 statute.

21 (2) Any party state or subdivision thereof desiring to make or participate in an audit of any
22 accounts, books, papers, records, or other documents may request the commission to perform the audit on its
23 behalf. In responding to the request, the commission shall have access to and may examine, at any reasonable
24 time, such accounts, books, papers, records, and other documents and any relevant property or stock of
25 merchandise. The commission may enter into agreements with party states or their subdivisions for assistance
26 in performance of the audit. The commission shall make charges, to be paid by the state or local government or
27 governments for which it performs the service, for any audits performed by it in order to reimburse itself for the
28 actual costs incurred in making the audit.

1 (3) The commission may require the attendance of any person within the state where it is
2 conducting an audit or part thereof at a time and place fixed by it within such state for the purpose of giving
3 testimony with respect to any account, book, paper, document, other record, property, or stock of merchandise
4 being examined in connection with the audit. If the person is not within the jurisdiction, the person may be
5 required to attend for such purpose at any time and place fixed by the commission within the state of which the
6 person is a resident, provided that such state has adopted this article.

7 (4) The commission may apply to any court having power to issue compulsory process for orders
8 in aid of its powers and responsibilities pursuant to this article, and any and all such courts shall have
9 jurisdiction to issue such orders. Failure of any person to obey any such order shall be punishable as contempt
10 of the issuing court. If the party or subject matter on account of which the commission seeks an order is within
11 the jurisdiction of the court to which application is made, such application may be to a court in the state or
12 subdivision on behalf of which the audit is being made or a court in the state in which the object of the order
13 being sought is situated. The provisions of this subsection apply only to courts in a state that has adopted this
14 article.

15 (5) The commission may decline to perform any audit requested if it finds that its available
16 personnel or other resources are insufficient for the purpose or that, in the terms requested, the audit is
17 impracticable of satisfactory performance. If the commission, on the basis of its experience, has reason to
18 believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of
19 interest to a number of party states or their subdivisions, it may offer to make the audit or audits, the offer to be
20 contingent on sufficient participation therein as determined by the commission.

21 (6) Information obtained by any audit pursuant to this article shall be confidential and available
22 only for tax purposes to party states, their subdivisions, or the United States. Availability of information shall be
23 in accordance with the laws of the states or subdivisions on whose account the commission performs the audit
24 and only through the appropriate agencies or officers of such states or subdivisions. Nothing in this article shall
25 be construed to require any taxpayer to keep records for any period not otherwise required by law.

26 (7) Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf
27 of the party states or any of their subdivisions are not superseded or invalidated by this article.

28 (8) In no event shall the commission make any charge against a taxpayer for an audit.

1 that it finds most appropriate for gaining access to evidence relevant to the matter before it.

2 (6) The board shall give due notice of the times and places of its hearings. The parties shall be
3 entitled to be heard, to present evidence, and to examine and cross-examine witnesses. The board shall act by
4 majority vote.

5 (7) The board shall have power to administer oaths, take testimony, subpoena and require the
6 attendance of witnesses and the production of accounts, books, papers, records, and other documents, and
7 issue commissions to take testimony. Subpoenas may be signed by any member of the board. In case of failure
8 to obey a subpoena and upon application by the board, any judge of a court of competent jurisdiction of the
9 state in which the board is sitting or in which the person to whom the subpoena is directed may be found may
10 make an order requiring compliance with the subpoenas, and the court may punish failure to obey the order as
11 a contempt. The provisions of this subsection apply only in states that have adopted this article.

12 (8) Unless the parties otherwise agree, the expenses and other costs of the arbitration shall be
13 assessed and allocated among the parties by the board in such manner as it may determine. The commission
14 shall fix a schedule of compensation for members of arbitration boards and of other allowable expenses and
15 costs. No officer or employee of a state or local government who serves as a member of a board shall be
16 entitled to compensation therefor unless the member is required on account of the service to forego the regular
17 compensation attaching to the member's public employment, but any such board member shall be entitled to
18 expenses.

19 (9) The board shall determine the disputed apportionment or allocation and any matters necessary
20 thereto. The determinations of the board shall be final for purposes of making the apportionment or allocation,
21 but for no other purpose.

22 (10) The board shall file with the commission and with each tax agency represented in the
23 proceeding: the determination of the board, the board's written statement of its reasons therefor, the record of
24 the board's proceedings, and any other documents required by the arbitration rules of the commission to be
25 filed.

26 (11) The commission shall publish the determinations of boards, together with the statements of the
27 reasons therefor.

28 (12) The commission shall adopt and publish rules of procedure and practice and shall file a copy of

1 such rules and of any amendment thereto with the appropriate agency or officer in each of the party states.

2 (13) Nothing contained herein shall prevent at any time a written compromise of any matter or
3 matters in dispute, if otherwise lawful, by the parties to the arbitration proceedings.

4 Article X. Entry Into Force ~~And~~ and Withdrawal

5 (1) This compact shall enter into force when enacted into law by any seven states. Thereafter, this
6 compact shall become effective as to any other state upon its enactment thereof. The commission shall arrange
7 for notification of all party states whenever there is a new enactment of the compact.

8 (2) Any party state may withdraw from this compact by enacting a statute repealing the same. No
9 withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such
10 withdrawal.

11 (3) No proceeding commenced before an arbitration board prior to the withdrawal of a state and to
12 which the withdrawing state or any subdivision thereof is a party shall be discontinued or terminated by the
13 withdrawal, nor shall the board thereby lose jurisdiction over any of the parties to the proceeding necessary to
14 make a binding determination therein.

15 Article XI. Effect ~~On~~ on Other Laws ~~And~~ and Jurisdiction

16 Nothing in this compact shall be construed to:

17 (1) affect the power of any state or subdivision thereof to fix rates of taxation, except that a party
18 state shall be obligated to implement Article III, subsection (2), of this compact;

19 (2) apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor
20 fuel, other than a sales tax; provided that the definition of "tax" in Article VIII, subsection (9), may apply for the
21 purposes of that article and the commission's powers of study and recommendation pursuant to Article VI,
22 subsection (3), may apply;

23 (3) withdraw or limit the jurisdiction of any state or local court or administrative officer or body with
24 respect to any person, corporation, or other entity or subject matter, except to the extent that such jurisdiction is
25 expressly conferred by or pursuant to this compact upon another agency or body;

26 (4) supersede or limit the jurisdiction of any court of the United States.

27 Article XII. Construction ~~And~~ and Severability

28 This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of

1 this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to
2 be contrary to the constitution of any state or of the United States or if the applicability thereof to any
3 government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and
4 the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If
5 this compact shall be held contrary to the constitution of any state participating therein, the compact shall
6 remain in full force and effect as to the remaining party states and in full force and effect as to the state affected
7 as to all severable matters."

8

9 **Section 2.** Section 15-30-2104, MCA, is amended to read:

10 **"15-30-2104. (Temporary) Tax on nonresident.** (1) (a) A tax is imposed ~~upon~~on each nonresident
11 equal to the tax computed under 15-30-2103 as if the nonresident were a resident during the entire tax year,
12 multiplied by the ratio of Montana source income to total income from all sources.

13 (b) This subsection (1) does not permit any items of income, gain, loss, deduction, expense, or
14 credit to be counted more than once in determining the amount of Montana source income, and the department
15 may adopt rules that are reasonably necessary to prevent duplication or to provide for allocation of particular
16 items of income, gain, loss, deduction, expense, or credit.

17 (2) Pursuant to the provisions of Article III, section 2, of ~~the Multistate Tax Compact~~ 15-1-601,
18 each nonresident taxpayer required to file a return and whose only activity in Montana consists of making sales
19 and who does not own or rent real estate or tangible personal property within Montana and whose annual gross
20 volume of sales made in Montana during the taxable year does not exceed \$100,000 may elect to pay an
21 income tax of 1/2 of 1% of the dollar volume of gross sales made in Montana during the taxable year. The tax is
22 in lieu of the tax imposed under 15-30-2103 and subsection (1)(a) of this section. The gross volume of sales
23 made in Montana during the tax year must be determined according to the provisions of Article IV, sections ~~46~~
24 11 and ~~47~~ 12, of ~~the Multistate Tax Compact~~ 15-1-601.

25 **15-30-2104. (Effective January 1, 2024) Tax on nonresident.** (1) (a) A tax is imposed ~~upon~~on each
26 nonresident individual, estate, or trust equal to the tax computed under 15-30-2103 as if the nonresident
27 individual, estate, or trust were a resident during the entire tax year, multiplied by the ratio of Montana source
28 income to total income from all sources.

1 (b) This subsection (1) does not permit any items of income, gain, loss, deduction, expense, or
2 credit to be counted more than once in determining the amount of Montana source income, and the department
3 may adopt rules that are reasonably necessary to prevent duplication or to provide for allocation of particular
4 items of income, gain, loss, deduction, expense, or credit.

5 (2) Pursuant to the provisions of Article III, section 2, of ~~the Multistate Tax Compact~~ 15-1-601,
6 each nonresident taxpayer required to file a return and whose only activity in Montana consists of making sales
7 and who does not own or rent real estate or tangible personal property within Montana and whose annual gross
8 volume of sales made in Montana during the taxable year does not exceed \$100,000 may elect to pay an
9 income tax of 1/2 of 1% of the dollar volume of gross sales made in Montana during the taxable year. The tax is
10 in lieu of the tax imposed under 15-30-2103 and subsection (1)(a) of this section. The gross volume of sales
11 made in Montana during the tax year must be determined according to the provisions of Article IV, sections ~~16~~
12 11 and 17 12, of ~~the Multistate Tax Compact~~ 15-1-601."

13

14 **Section 3.** Section 15-30-3313, MCA, is amended to read:

15 **"15-30-3313. Consent or withholding -- rulemaking.** (1) A pass-through entity that is required to file
16 an information return as provided in 15-30-3302 and that reports a distributive share of income of \$1,000 or
17 more of Montana source income during the tax year to a partner, shareholder, member, or other owner who is a
18 nonresident individual, a foreign C. corporation, or any other entity, organization, or account whose principal
19 place of business or administration is outside the state of Montana or that is itself a pass-through entity shall, on
20 or before the due date, including extensions, for the information return:

21 (a) with respect to any partner, shareholder, member, or other owner who is a nonresident
22 individual:

23 (i) file a composite return;

24 (ii) file an agreement of the individual nonresident to:

25 (A) file a return in accordance with the provisions of 15-30-2602;

26 (B) timely pay all taxes imposed with respect to income of the pass-through entity; and

27 (C) be subject to the personal jurisdiction of the state for the collection of income taxes and related
28 interest, penalties, and fees imposed with respect to the income of the pass-through entity; or

1 (iii) remit an amount equal to the highest marginal tax rate in effect under 15-30-2103 multiplied by
2 the nonresident individual's share of Montana source income reflected on the pass-through entity's information
3 return;

4 (b) with respect to any partner, shareholder, member, or other owner that is a foreign C.
5 corporation:

6 (i) file a composite return;

7 (ii) file the foreign C. corporation's agreement to:

8 (A) file a return in accordance with the provisions of 15-31-111;

9 (B) timely pay all taxes imposed with respect to income of the pass-through entity; and

10 (C) be subject to the personal jurisdiction of the state for the collection of income taxes, corporate
11 income taxes, and alternative corporate income taxes and related interest, penalties, and fees imposed with
12 respect to the income of the pass-through entity; or

13 (iii) remit an amount equal to the tax rate in effect under 15-31-121 multiplied by the foreign C.
14 corporation's share of Montana source income reflected on the pass-through entity's information return; and

15 (c) with respect to any partner, shareholder, member, or other owner that is a pass-through entity,
16 also referred to in this section as a "second-tier pass-through entity":

17 (i) file a composite return; or

18 (ii) remit an amount equal to the highest marginal tax rate in effect under 15-30-2103 multiplied by
19 its share of Montana source income reflected on the pass-through entity's information return.

20 (2) Any amount paid by a pass-through entity with respect to a nonresident individual pursuant to
21 subsection (1)(a)(iii) must be considered as a payment on the account of the nonresident individual for the
22 income tax imposed on the nonresident individual for the tax year pursuant to 15-30-2104. On or before the due
23 date, including extensions, of the pass-through entity's information return provided in 15-30-3302, the pass-
24 through entity shall furnish to the nonresident individual a record of the amount of tax paid on the taxpayer's
25 behalf.

26 (3) Any amount paid by a pass-through entity with respect to a foreign C. corporation pursuant to
27 subsection (1)(b)(iii) must be considered as a payment on the account of the foreign C. corporation for the
28 corporate income tax imposed on the foreign C. corporation for the tax year pursuant to 15-31-101 or the

1 alternative corporate income tax imposed on the foreign C. corporation for the tax year pursuant to 15-31-403.
2 On or before the due date, including extensions, of the pass-through entity's information return provided in 15-
3 30-3302, the pass-through entity shall furnish to the foreign C. corporation a record of the amount of tax paid on
4 its behalf.

5 (4) Any amount paid by a pass-through entity with respect to a second-tier pass-through entity
6 pursuant to subsection (1)(c)(ii) must be considered as payment on the account of the individual, trust, estate,
7 or C. corporation to which Montana source income is directly or indirectly passed through and must be claimed
8 as the distributable share of a refundable credit of the pass-through entity partner, shareholder, member, or
9 other owner on behalf of which the amount was paid. On or before the due date, including extensions, of the
10 pass-through entity's information return provided in 15-30-3302, the pass-through entity shall furnish to the
11 second-tier pass-through entity a record of the refundable credit that may be claimed for the amount paid on its
12 behalf.

13 (5) A pass-through entity is entitled to recover a payment made pursuant to subsection (1)(a)(iii),
14 (1)(b)(iii), or (1)(c)(ii) from the partner, shareholder, member, or other owner on whose behalf the payment was
15 made.

16 (6) Following the department's notice to a pass-through entity that a nonresident individual or
17 foreign C. corporation did not file a return or timely pay all taxes as provided in subsection (1), the pass-through
18 entity must, with respect to any tax year thereafter for which the nonresident individual or foreign C. corporation
19 is not included in the pass-through entity's composite return, remit the amount described in subsection (1)(a)(iii)
20 for the nonresident individual and the amount described in subsection (1)(b)(iii) for the foreign C. corporation.

21 (7) (a) A publicly traded partnership described in 15-30-3302(4) that agrees to file an annual
22 information return reporting the name, address, and taxpayer identification number for each person or entity
23 that has an interest in the partnership that results in Montana source income or that has sold its interest in the
24 partnership during the tax year is exempt from the composite return and withholding requirements of Title 15,
25 chapter 30. A publicly traded partnership shall provide the department with the information in an electronic form
26 that is capable of being sorted and exported. Compliance with this subsection (7)(a) does not relieve a person
27 or entity from its obligation to pay Montana income taxes.

28 (b) A pass-through entity may be allowed a waiver of the provisions of subsection (1)(c) if one or

1 more publicly traded partnerships has a direct or indirect majority interest in the income distributed by the pass-
2 through entity. The pass-through entity shall apply to the department in writing for the waiver of the withholding
3 requirements set forth in subsection (1)(c).

4 (c) Waivers issued by the department prior to January 1, 2016, to pass-through entities in which a
5 publicly traded partnership has a direct or indirect majority interest will remain in effect in accordance with the
6 law and rules in effect at the time the waiver was granted.

7 (d) The department shall adopt rules outlining the requirements for the waiver request.

8 (8) (a) A pass-through entity may be allowed a waiver of the provisions of subsection (1)(c) for any
9 partner, shareholder, member, or other owner that is a domestic second-tier pass-through entity if:

10 (i) the pass-through entity files a statement setting forth the name, address, and social security
11 number or federal identification number of each of the domestic second-tier pass-through entity's partners,
12 shareholders, members, or other owners; and

13 (ii) the information establishes that the domestic second-tier pass-through entity's share of
14 Montana source income should be fully accounted for in an income tax return required under Title 15, chapter
15 30 or 31.

16 (b) For purposes of this subsection (8), the following definitions apply:

17 (i) "Domestic C. corporation" is a corporation that is engaged in or doing business in the state, as
18 provided in 15-31-101.

19 (ii) "Domestic second-tier pass-through entity" is a pass-through entity whose interest is entirely
20 held, either directly or indirectly, by one or more resident individuals, domestic C. corporations, or any other
21 entities, organizations, or accounts whose principal place of business or administration is located in the state of
22 Montana or any combination of interests held by resident individuals, domestic C. corporations, or any other
23 entities, organizations, or accounts whose principal place of business or administration is located in the state of
24 Montana.

25 (c) Subsequent to the initial approval of a waiver, the department may revoke the waiver if it
26 determines that the partner, shareholder, member, or other owner no longer qualifies.

27 (9) Nothing in this section may be construed as modifying the provisions of Article IV, (48)
28 subsection (13), of 15-1-601 and 15-31-312 allowing a taxpayer to petition for and the department to require

1 methods to fairly represent the extent of the taxpayer's business activity in the state.

2 (10) The department may adopt rules to administer and enforce the provisions of this section."

3

4 **Section 4.** Section 15-31-122, MCA, is amended to read:

5 **"15-31-122. Alternative gross sales tax.** Pursuant to the provisions of Article III, section 2, of ~~the~~
6 ~~Multistate Tax Compact~~ 15-1-601, every corporation deriving income from sources both within and without the
7 state of Montana and required to file a return and whose only activity in Montana consists of making sales and
8 which does not own or rent real estate or tangible personal property within Montana and whose annual gross
9 volume of sales made in Montana during the taxable year does not exceed \$100,000 may elect to pay a tax of
10 1/2 of 1% of gross sales made in Montana during the taxable year. Such tax shall be in lieu of the tax otherwise
11 imposed under 15-31-101 and 15-31-121. The gross volume of sales made in Montana during the taxable year
12 shall be determined according to the provisions of Article IV, sections ~~16~~ 11 and ~~17~~ 12, of ~~the Multistate Tax~~
13 ~~Compact~~ 15-1-601."

14

15 **Section 5.** Section 15-31-310, MCA, is amended to read:

16 **"15-31-310. Definition of receipts factor.** The receipts factor is provided for in Article IV, subsection
17 ~~(15)~~ (10), of 15-1-601."

18

19 **Section 6.** Section 15-31-311, MCA, is amended to read:

20 **"15-31-311. Receipts factor for receipts in this state.** (1) Receipts from the sale of tangible
21 personal property are in this state as provided for in Article IV, subsection ~~(16)~~ (11), of 15-1-601.

22 (2) Receipts, other than receipts provided for in subsection (1), are in this state as provided for in
23 Article IV, subsection ~~(17)~~ (12), of 15-1-601."

24

25 **Section 7.** Section 15-31-312, MCA, is amended to read:

26 **"15-31-312. Apportionment formula -- unitary business provisions.** (1) If the allocation and
27 apportionment provisions of this part do not fairly represent the extent of the taxpayer's business activity in this
28 state, the taxpayer may petition for or the tax administrator may require, in respect to all or any part of the

1 taxpayer's business activity, if reasonable:

2 (a) separate accounting, provided the taxpayer's activities in this state are separate and distinct
3 from its operations conducted outside this state and are not a part of a unitary business operation conducted
4 within and without this state; or

5 (b) the application of the provisions of Article IV, subsections ~~(18)(a)(ii)~~ (13)(a)(ii) through
6 ~~(18)(a)(iv)~~ (13)(a)(iv), of 15-1-601.

7 (2) If the allocation and apportionment provisions of this part do not fairly represent the extent of
8 business activity in this state of taxpayers engaged in a particular industry or in a particular transaction or
9 activity, Article IV, subsection ~~(18)(b)~~ (13)(b), of 15-1-601 applies."

10

11 **Section 8.** Section 15-31-403, MCA, is amended to read:

12 **"15-31-403. Rate of tax imposed -- income from sources within state defined -- alternative tax.**

13 (1) Except as provided in 15-31-401, there is hereby imposed upon every corporation for each taxable year an
14 income tax at the rate specified in 15-31-121 and 15-31-122 upon its net income derived from sources within
15 this state for taxable years beginning after December 31, 1970, other than income for any period for which the
16 corporation is subject to taxation under part 1 of this chapter, according to or measured by its net income.

17 (2) Income from sources within this state includes income from tangible or intangible property
18 located in or having a situs in this state and income from any activities carried on in this state, regardless of
19 whether carried on in intrastate, interstate, or foreign commerce, but does not include interest paid on loans
20 held by out-of-state financial institutions recognized as such in the state of their domicile, secured by
21 mortgages, trust indentures, or other security interests on real or personal property located within the state, if
22 the loan is originated by a lender doing business in Montana and assigned out-of-state and there is no activity
23 conducted by the out-of-state lender in Montana except periodic inspection of the security.

24 (3) Pursuant to Article III, section 2, of ~~the Multistate Tax Compact~~ 15-1-601, any corporation
25 required to file a return under this part and whose only activity in Montana consists of making sales and which
26 does not own or rent real estate or tangible personal property within Montana and whose annual gross volume
27 of sales made in Montana does not exceed \$100,000 may elect to pay a tax of 1/2 of 1% of gross sales made
28 in Montana during the taxable year. Such tax shall be in lieu of the tax otherwise imposed under this section.

1 The gross volume of sales made in Montana during the taxable year shall be determined according to Article
2 IV, sections 46 11 and 47 12, of the ~~Multistate Tax Compact~~ 15-1-601."

3

4 **Section 9.** Section 15-31-406, MCA, is amended to read:

5 **"15-31-406. Corporate income tax sections incorporated by reference.** The provisions of the
6 following sections of this chapter are incorporated into this part by reference and made a part of this part:

7 (1) that part of 15-31-101 that defines the term "corporation" and 15-31-102, which specifies the
8 classes of organizations whose income may not be taxed;

9 (2) sections 15-31-111 through 15-31-114, 15-31-117 through 15-31-119, 15-31-141, 15-31-142,
10 15-31-301 through 15-31-305, 15-31-310 through 15-31-313, 15-31-501 through 15-31-506, 15-31-509, 15-31-
11 511, 15-31-525, 15-31-526, 15-31-531, 15-31-532, 15-31-541, and 15-31-543, except that the term "gross
12 income" must be construed as excluding the net amount of interest income from valid obligations of the United
13 States and except that wherever the words "tax", "corporate income tax", "license tax", "license fee",
14 "corporation excise tax", or similar words appear, referring to the tax imposed under part 1 of this chapter, there
15 is substituted the words "alternative corporate income tax"."

16

17 NEW SECTION. **Section 10. Repealer.** The following sections of the Montana Code Annotated are
18 repealed:

- 19 15-31-306. Definition of property factor.
- 20 15-31-307. Values used for property factor.
- 21 15-31-308. Definition of payroll factor.
- 22 15-31-309. Payroll factor for compensation in this state.

23

24 NEW SECTION. **Section 11. Effective date.** [This act] is effective ~~on passage and approval~~ January
25 1, 2025.

26

27 NEW SECTION. **Section 12. Applicability.** [This act] applies to tax years beginning after ~~June 30,~~
28 2023 December 31, 2024.

AMEND