



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2025 Biennium

Bill information:

SB0246 - Revise corporate income tax water's-edge election laws (Zolnikov, Daniel)

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

	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
Revenue:				
General Fund	(\$1,386,000)	(\$1,357,000)	(\$1,378,000)	(\$1,404,000)
Net Impact-General Fund Balance:	(\$1,386,000)	(\$1,357,000)	(\$1,378,000)	(\$1,404,000)

Description of fiscal impact: SB 246 eliminates the list of countries considered tax havens that under current law are included in the tax base of corporations that elect water's edge filing status for Montana corporate income tax. This bill is estimated to decrease corporate income tax general fund revenue by approximately \$1.4 million per year, beginning in FY 2024.

FISCAL ANALYSIS

Assumptions:

Department of Revenue

1. C corporations have the option to elect the "water's edge" filing method. This allows them to exclude income from outside the United States in their apportionment of total income. Under current law, the exception to this is any income or losses earned in tax haven countries must be added back into the corporation's total income before it is apportioned to Montana. Firms that make a water's edge election pay corporation tax at a 7% tax rate instead of the standard 6.75% rate.
2. SB 246 revises corporate income tax law by removing the tax haven list from 15-31-322, MCA. There are currently 40 countries in the tax haven list. Repealing the tax haven list would reduce adjusted taxable income for some corporations. A few, those that had losses in a tax haven country but still had overall positive total income, would see increased adjusted taxable income. Approximately 80 of the 600 to 700 corporations that

file using the water’s edge election report some tax haven income. The net impact of SB 246’s elimination of the add back would be a decrease in total taxable income and tax liability in Montana.

3. Based on analysis of corporate income tax returns from TY 2018, TY 2019, and TY 2020, eliminating the tax haven list would have resulted in an average decrease in corporate income tax liability and collections by approximately 0.5% in those years.
4. The following table shows the estimated impact of eliminating the tax haven list by applying this 0.5% decrease to the corporate income tax HJ 2 estimates going forward. This bill has a retroactive applicability date to tax years beginning after December 31, 2022, so it would apply to TY 2023 on. This is expected to impact collections beginning in FY 2024.

Fiscal Year	HJ2 Forecast (current law)	Eliminating Tax Havens	Revenue Impact
2024	\$277,207,000	\$275,821,000	(\$1,386,000)
2025	\$271,356,000	\$269,999,000	(\$1,357,000)
2026	\$275,598,000	\$274,220,000	(\$1,378,000)
2027	\$280,764,000	\$279,360,000	(\$1,404,000)

5. This bill is estimated to decrease corporate income tax collections and general fund revenue by \$1,386,000 in FY 2024, \$1,357,000 in FY 2025, \$1,378,000 in FY 2026, and \$1,404,000 in FY 2027.
6. The Department of Revenue would not incur significant additional costs to implement this bill.

<u>Fiscal Impact:</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>
	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>
Department of Revenue				
FTE	0.00	0.00	0.00	0.00
<u>Expenditures:</u>				
Personal Services	\$0	\$0	\$0	\$0
TOTAL Expenditures	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
TOTAL Funding of Exp.	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Revenues:</u>				
General Fund (01)	(\$1,386,000)	(\$1,357,000)	(\$1,378,000)	(\$1,404,000)
TOTAL Revenues	<u>(\$1,386,000)</u>	<u>(\$1,357,000)</u>	<u>(\$1,378,000)</u>	<u>(\$1,404,000)</u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$1,386,000)	(\$1,357,000)	(\$1,378,000)	(\$1,404,000)



 Sponsor's Initials

2/9/23

 Date



 Budget Director's Initials

2-8-23

 Date